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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH BONGIOVANNI,

Defendant.

Case No. 1:19-cr-227
(LJV)

September 20, 2024

TRANSCRIPT EXCERPT - EXAMINATION OF RONALD SERIO - DAY 2
BEFORE THE HONORABLE LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

APPEARANCES:

TRINI E. ROSS, UNITED STATES ATTORNEY
BY: JOSEPH M. TRIPI, ESQ.
NICHOLAS T. COOPER, ESQ.
CASEY L. CHALBECK, ESQ.

Assistant United States Attorneys
Federal Centre, 138 Delaware Avenue
Buffalo, New York 14202
For the Plaintiff

SINGER LEGAL PLLC

BY: ROBERT CHARLES SINGER, ESQ.

80 East Spring Street
Williamsville, New York 14221

And

LAW OFFICES OF PARKER ROY MacKAY

BY: PARKER ROY MacKAY, ESQ.

3110 Delaware Avenue
Kenmore, New York 14217

And

OSBORN, REED & BURKE, LLP

BY: JOHN J. GILSENAN, ESQ.

120 Allens Creek Road
Rochester, New York 14618
For the Defendant

PRESENT:

BRIAN A. BURNS, FBI Special Agent
MARILYN K. HALLIDAY, HSI Special Agent
KAREN A. CHAMPOUX, USA Paralegal

LAW CLERK:

REBECCA FABIAN IZZO, ESQ.

COURT DEPUTY CLERK: COLLEEN M. DEMMA

COURT REPORTER: ANN MEISSNER SAWYER, FCRR, RPR, CRR
Robert H. Jackson Federal Courthouse
2 Niagara Square
Buffalo, New York 14202
Ann_Sawyer@nywd.uscourts.gov

* * * * *

(Excerpt commenced at 9:45 a.m.)

(Witness and Jury seated at 9:45 a.m.)

THE COURT: Good morning, everyone.

ALL PARTIES: Good morning.

THE COURT: The record will reflect that all our jurors are present. I did my best not to get sick, but wasn't able to pull through.

So, okay -- and the mask is just a precaution. I'm told that because I've been symptom-free and fever-free for 48 hours, I don't even need to wear it, but I worry about other people. And, so, I'm wearing this just to protect others because I think it's a minor inconvenience, and the -- the incremental safety for others is more important than, you know, my convenience in not wearing it. I hate wearing it. I hate wearing it. But I'd rather have people safe, and me in an unpleasant situation rather than expose people to being ill.

So, we will go until 4:30 today. I have to -- someplace to go, so I have to leave at 4:30, so we're going to

09:46AM 1 leave at 4:30 today, we'll be on every day next week except
09:46AM 2 Friday, next Friday we'll be down. And then we will likely
09:46AM 3 continue the following week because of the various illnesses
09:46AM 4 and other things that have delayed things. And I apologize,
09:46AM 5 we are so grateful for you folks. I know it's even worse than
09:46AM 6 you thought it was going to be, but it's beyond our control.
09:47AM 7 You know, when I woke up on Tuesday morning and took my
09:47AM 8 temperature, I said, uh-oh, this is not going to be good. And
09:47AM 9 called my doctor and got the instructions and did -- followed
09:47AM 10 his instructions and so here we are. So, so let's get
09:47AM 11 started.

09:47AM 12 I remind the witness he's still under oath.

09:47AM 13 And, Mr. Tripi, you can continue.

09:47AM 14 **MR. TRIPI:** Thank you very much, Your Honor.

09:47AM 15
09:47AM 16 **R O N A L D S E R I O**, having been previously duly called
09:47AM 17 and sworn, continued to testify as follows:

09:47AM 18
09:47AM 19 **(CONT'D) DIRECT EXAMINATION BY MR. TRIPI:**

09:47AM 20 Q. Good morning, Mr. Serio.

09:47AM 21 A. Good morning.

09:47AM 22 Q. We last left off on Monday, I just kind of want to --
09:47AM 23 because it's been a few days, I want to recap where we left
09:47AM 24 off, okay?

09:47AM 25 We had talked about 2008 and 2009, you described the

09:47AM 1 operations, distribution, and money you and Masecchia and
09:47AM 2 others were earning during that timeframe. And it was during
09:47AM 3 that timeframe when Masecchia told you, in sum and substance,
09:47AM 4 that Bongiovanni would look out --

09:47AM 5 A. Correct.

09:47AM 6 Q. -- right?

09:47AM 7 Then you described a conversation that happened in your
09:48AM 8 garage I think at 125 Huntington, which was sometime after a
09:48AM 9 roundup that included some people you knew, including David
09:48AM 10 Gambino and Sam Vacanti; is that right?

09:48AM 11 A. Yes.

09:48AM 12 Q. And as you understood it, those people were charged
09:48AM 13 federally?

09:48AM 14 A. Yes.

09:48AM 15 Q. And I think you described that in your garage, you and
09:48AM 16 Masecchia discussed paying the defendant \$2,000 per month for
09:48AM 17 information into investigation -- about investigations and
09:48AM 18 informants; is that right?

09:48AM 19 A. Correct.

09:48AM 20 Q. Okay. All right. And the payments were to be made
09:48AM 21 monthly, and the information was to flow through Lou Selva;
09:48AM 22 is that right?

09:48AM 23 A. Correct.

09:48AM 24 Q. Now, I want to pick it up from there and the discussion,
09:48AM 25 okay?

09:48AM

1 A. Okay.

09:48AM

2 Q. What did Mr. Masecchia tell you was the reason that the
3 primary contact and information would flow through Lou Selva?

09:48AM

09:48AM

4 A. Because Lou was best friends with Joe. So, it looked
5 better for -- well, Lou was always around Joe. So instead of
6 Mike, who was a drug dealer, they didn't want me to meet him
7 because I was a drug dealer.

09:49AM

09:49AM

09:49AM

8 Q. So, to sum it up, sort of less conspicuous to deal with
9 Lou and Joe, as opposed to you and Mike and Joe?

09:49AM

09:49AM

10 A. Yes.

09:49AM

11 Q. All right. Now, what approximate year did the payments
12 of \$2,000 begin to the best of your ability?

09:49AM

09:49AM

13 A. It was 2010.

09:49AM

14 Q. Okay. By that point in time, was it your understanding
15 through Mike that Joe had been looking out since about 2008?

09:49AM

09:49AM

16 A. Yes.

09:49AM

17 Q. Approximately how long did the payment level persist at
18 the \$2,000 per month rate?

09:49AM

09:49AM

19 A. It's about an around a year, less than a year.

09:50AM

20 Q. Okay. Eventually, after that, did it bump up?

09:50AM

21 A. Yes.

09:50AM

22 Q. What did it bump up to?

09:50AM

23 A. To \$4,000.

09:50AM

24 Q. So an additional \$2,000 per month?

09:50AM

25 A. Correct.

09:50AM 1 Q. So in those years of 2010 into 2011, did your and

09:50AM 2 Masecchia's operations continue to expand?

09:50AM 3 A. Yes.

09:50AM 4 Q. Describe for the jury generally, and then I'll get more

09:50AM 5 specific in my questions, but generally explain for them how

09:50AM 6 your operations with Mr. Masecchia continued to expand in

09:50AM 7 2010 and 2011.

09:50AM 8 A. Well, I developed a new connection where I was able to

09:50AM 9 get larger quantities of marijuana.

09:50AM 10 Q. So were you moving more volume?

09:50AM 11 A. Correct.

09:50AM 12 Q. Were the people selling for you also moving more product

09:50AM 13 for you?

09:50AM 14 A. Yes.

09:50AM 15 Q. How much more product were you able to get?

09:50AM 16 A. About a extra hundred to 200 pounds a month.

09:50AM 17 Q. And generally, by way of rough estimate, what's the value

09:51AM 18 of that extra hundred, let's say, 200 pounds of marijuana?

09:51AM 19 A. Profit-wise?

09:51AM 20 Q. Your cost, and then profit-wise.

09:51AM 21 A. So the cost around that time was around \$3,000, I

09:51AM 22 believe. And my profit would be anywhere from 20- to 50,000

09:51AM 23 on every hundred.

09:51AM 24 Q. So your cost is \$3,000 a pound?

09:51AM 25 A. Yes, and I'd sell it for between 32- to 35-.

09:51AM 1 Q. So, you would make 2- to \$500 per pound?

09:51AM 2 A. Correct.

09:51AM 3 Q. So as you scale up your operations, you and others
09:51AM 4 working with you were earning more money?

09:51AM 5 A. Correct.

09:51AM 6 Q. Was this in addition to the indoor grows that you had at
09:51AM 7 your warehouse, at Suppa's house, and the outdoor grows that
09:52AM 8 Masecchia had going on?

09:52AM 9 A. Correct. Well, in 2010, I stopped at my warehouse.

09:52AM 10 Q. So part of 2010, you were in the warehouse, and then it
09:52AM 11 stopped?

09:52AM 12 A. Correct.

09:52AM 13 Q. What part of 2010 did you stop the warehouse operation?

09:52AM 14 A. It was, I believe, in the winter. Once the winter was
09:52AM 15 over.

09:52AM 16 Q. Winter towards the beginning of 2010, or winter towards
09:52AM 17 the end of 2010?

09:52AM 18 A. The beginning of 2010.

09:52AM 19 Q. Okay. We're in Buffalo, so we have to specify; right?

09:52AM 20 A. Yes.

09:52AM 21 Q. All right. Were you also selling cocaine during those
09:52AM 22 timeframes?

09:52AM 23 A. In 2008 I was.

09:52AM 24 Q. After 2008, would you sell it intermittently here and
09:52AM 25 there?

09:52AM 1 A. Starting 2013, I did.

09:52AM 2 Q. Okay. So you took a gap of '09 through to the beginning

09:52AM 3 of 2013, you took a break on cocaine?

09:52AM 4 A. Correct.

09:53AM 5 Q. What amounts of cocaine, just so we can go back, were you

09:53AM 6 selling in 2008 on a consistent basis?

09:53AM 7 A. Ounces. I would get maybe a quarter or a half a key.

09:53AM 8 Q. And then break it down into ounces?

09:53AM 9 A. Correct.

09:53AM 10 Q. And then in 2013, how did that look in terms of your

09:53AM 11 cocaine distribution?

09:53AM 12 A. Because I was, I developed a -- a new connection, and I

09:53AM 13 was trading marijuana for the cocaine. So, it wasn't super

09:53AM 14 consistent, but I would sell ounces. Or even if my friends

09:53AM 15 wanted, like, 3-and-a-half grams or something like that.

09:53AM 16 Q. And that picked up in 2013?

09:53AM 17 A. Correct.

09:53AM 18 Q. And who was that connection?

09:53AM 19 A. Jimmy Rivera.

09:53AM 20 Q. By the time you and Masecchia discussed making \$2,000 per

09:54AM 21 month payments to the defendant and paying him for

09:54AM 22 information about investigation and informants, were you and

09:54AM 23 Masecchia both feeling more exposed as a result of your

09:54AM 24 continuing operations, expanding your operations?

09:54AM 25 A. Yes.

09:54AM 1 Q. Did you believe around that time there was more risk of
09:54AM 2 an informant infiltrating your group?

09:54AM 3 A. Yes.

09:54AM 4 Q. Why did you believe that?

09:54AM 5 A. Well, as you deal with more people, you have more chances
09:54AM 6 of being exposed.

09:54AM 7 Q. Were the \$2,000 monthly payments to Defendant Bongiovanni
09:54AM 8 and the information exchanges set on -- scheduled on set days
09:54AM 9 of the month?

09:55AM 10 A. No, it was generally in the beginning of the month. It
09:55AM 11 wasn't a specific day. I see Mike all the time, so --

09:55AM 12 Q. I'm sorry, I stepped over you, continue.

09:55AM 13 A. Oh. Well, I used to see Mike all the time, so if it was
09:55AM 14 in the beginning of the month, whatever day it was, I would
09:55AM 15 just give it to him.

09:55AM 16 Q. So it wasn't like every Tuesday.

09:55AM 17 A. No.

09:55AM 18 Q. The first of the month, or whatever?

09:55AM 19 A. No.

09:55AM 20 Q. Okay. But somewhere generally near the beginning?

09:55AM 21 A. Correct.

09:55AM 22 Q. Now, if something arose off schedule, in other words not
09:55AM 23 in the beginning of the month, not around the time of the
09:55AM 24 payment, not around the time of the defendant's meeting with
09:55AM 25 Lou Selva, that's what I mean by off schedule, okay?

09:55AM

1 A. Yes.

09:55AM

2 Q. If something arose off schedule from Mr. Selva's monthly
3 meeting with Defendant Bongiovanni, did Masecchia indicate to
4 you that he could get ahold of Bongiovanni?

09:55AM

5 A. Yes.

09:55AM

6 Q. What did he advise you in that record?

09:55AM

7 A. I don't understand.

09:55AM

8 Q. How did you know that Masecchia would be able to
9 independently get ahold of Bongiovanni?

09:55AM

09:55AM

10 A. Well, he didn't specifically say it, but sometimes he
11 would say that he seen Joe. So I assumed that he had had
12 contact with him.

09:56AM

09:56AM

13 Q. And when he would say -- sometimes when Mr. Masecchia
14 would say he had seen Joe, was that on a -- on a -- a time of
15 the month that was different from when the payments were?

09:56AM

09:56AM

16 A. I'm not sure.

09:56AM

09:56AM

17 Q. Okay.

09:56AM

18 A. Well, yeah, he used to hang out at M.T. Pockets, and
19 sometimes they would be there together.

09:56AM

09:56AM

20 Q. Okay. Is M.T. Pockets a bar on Hertel --

09:56AM

09:56AM

21 A. Correct.

09:56AM

22 Q. -- in North Buffalo?

09:56AM

23 A. Yes.

09:56AM

24 Q. So, were there times when something came up unexpectedly
25 where you knew Masecchia was able to get the information that

09:56AM

09:56AM

09:56AM 1 you wanted directly from Bongiovanni?

09:56AM 2 A. Yes.

09:56AM 3 Q. Can you give this jury two examples?

09:57AM 4 A. The one time I believe with Mario Vacanti, and -- I'm
09:57AM 5 drawing a blank.

09:57AM 6 Q. Okay. I'll ask some more specific questions a little bit
09:57AM 7 later, okay?

09:57AM 8 A. Yes.

09:57AM 9 Q. I'll get into more detail. But was there a situation
09:57AM 10 with an individual named Mark Vitale?

09:57AM 11 A. Yes, that's the other time.

09:57AM 12 Q. Can you describe what happened with Mark Vitale and what
09:57AM 13 you asked Masecchia to do?

09:57AM 14 A. Mark Vitale's house got raided, and I asked Mike to find
09:57AM 15 out if everything was okay.

09:57AM 16 Q. And what did you mean by "find out if everything was
09:57AM 17 okay?"

09:57AM 18 A. If Mark was cooperating against me, or said my name, or
09:57AM 19 if there was an investigation on me.

09:57AM 20 Q. And when you told Mike to see if everything was okay,
09:57AM 21 who -- who were you directing Mike to check with?

09:57AM 22 A. To Joe Bongiovanni.

09:58AM 23 Q. Is that an example of a situation that popped up
09:58AM 24 unexpectedly?

09:58AM 25 A. Yes.

09:58AM 1 Q. Was there another situation like similar to that when you
09:58AM 2 learned that Wayne Anderson had been arrested?

09:58AM 3 A. Correct.

09:58AM 4 Q. Is that a situation that arose unexpectedly?

09:58AM 5 A. Yes.

09:58AM 6 Q. I'll get into that in more detail, but is that -- is that
09:58AM 7 a situation where you asked Mike to check on the situation?

09:58AM 8 A. Yes.

09:58AM 9 Q. And who were you instructing or asking Mike to check
09:58AM 10 with?

09:58AM 11 A. Joe Bongiovanni.

09:58AM 12 Q. And what were you informed after you asked Mike to check
09:58AM 13 into that?

09:58AM 14 A. That everything was okay.

09:58AM 15 Q. Okay. We'll get into those in more specifics in a little
09:58AM 16 bit.

09:58AM 17 A. Okay.

09:58AM 18 Q. When did you -- approximately when did you buy your house
09:58AM 19 on Lebrun?

09:58AM 20 A. It was 2011.

09:58AM 21 Q. And is that when you began renovating it in the manner
09:59AM 22 that you described Monday?

09:59AM 23 A. Correct.

09:59AM 24 Q. Now, by approximately 2011, were you -- were you having
09:59AM 25 your marijuana shipped by trucking across country to you from

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1 Santiago Gale?

2 A. Yes.

3 Q. Now I just want to take a step back. In March, in

4 another proceeding in this matter of this year, did you

5 mistakenly estimate during some testimony that you dealt with

6 Santiago Gale in 2012?

7 A. Yes.

8 Q. Subsequent to that testimony, did you -- did you review

9 documents indicating Mr. Gale was arrested in 2012 and was in

10 custody?

11 A. Correct.

12 Q. Did that refresh your recollection as to the timeline?

13 A. It did. I got confused because at the time I wasn't

14 aware that he got arrested. So, I was still dealing with

15 T.S. So I didn't know if T.S. had a different connection or

16 they had an agreement.

17 I only met Santiago once, so everything was through Tom.

18 So if they didn't want to stop, they obviously wouldn't tell

19 me that he got arrested.

20 Q. Okay. So, we'll break that down a little bit.

21 But, by 2011, you're dealing with Santiago Gale?

22 A. Yes.

23 Q. Can you describe how you were introduced to Santiago

24 Gale?

25 A. Through T.S.

10:00AM 1 Q. And who is T.S.?

10:00AM 2 A. He's a friend of Frank Burkhardt that -- I knew Frank
10:00AM 3 Burkhardt, and Frank Burkhardt introduced me to T.S.

10:00AM 4 Q. And is Frank Burkhardt someone you dealt marijuana with?

10:00AM 5 A. Yes.

10:00AM 6 Q. Is Frank Burkhardt someone who was also friends with R.K.?

10:00AM 7 B.K.?

10:00AM 8 A. Correct.

10:00AM 9 Q. Now, when you -- I think you touched a little bit on
10:00AM 10 Monday, but when you negotiated with Santiago Gale, can you
10:00AM 11 describe in a little more detail for the jury how you did
10:00AM 12 that?

10:00AM 13 A. I met him in New York City, and I just tried to convince
10:00AM 14 him -- because he also had shipments going to Boston, and I
10:01AM 15 wanted to take all the shipments. So I said it would be
10:01AM 16 safer to give it all to me because I had a DEA agent on the
10:01AM 17 payroll.

10:01AM 18 Q. Was T.S. with you for that meeting?

10:01AM 19 A. Yes.

10:01AM 20 Q. Was Frank Burkhardt?

10:01AM 21 A. Yes.

10:01AM 22 Q. And what was your purpose for mentioning that you had a
10:01AM 23 DEA agent on payroll in that negotiation?

10:01AM 24 A. To make him feel more comfortable that we had an insider,
10:01AM 25 in case there was any investigations or anything.

1 Q. During your discussion with Santiago Gale, did he
2 indicate to you where the marijuana would be coming from?

3 A. Out of Utah. Well, it comes from California, then they
4 would have to ship it to Vegas or Utah in small amounts, and
5 then take it from there.

6 Q. In total, what was the amount of the marijuana shipments
7 that you were negotiating?

8 A. Around 200 pounds.

9 Q. Was that an increase from the monthly amount you had been
10 getting from Mark Kagan?

11 A. Yes.

12 Q. Remind the jury, what was the amount you had been getting
13 monthly from Mark Kagan?

14 A. 50 pounds a month.

15 Q. So basically you're up -- you're upping that supply
16 stream by 400 percent?

17 A. Correct.

18 Q. Or four times the amount?

19 A. Yes.

20 Q. Okay. You touched on it a moment ago. What was Santiago
21 Gale's delivery method going to be for you to receive the
22 marijuana?

23 A. Through to the tractor-trailer.

24 Q. A moment ago you said they would get it to Utah or
25 Las Vegas and then put it into trucks. Can you explain that?

10:02AM 1 A. Well, because coming out of California, they look for
10:02AM 2 large trucks, so they take it in smaller amounts so that it's
10:02AM 3 less conspicuous. And then they bring it to a warehouse and
10:02AM 4 they store it there. Then they put it on the big trucks.
10:02AM 5 Q. So from California, a number of little trucks travel to
10:03AM 6 Utah or Las Vegas?
10:03AM 7 A. Correct.
10:03AM 8 Q. And the loads are broken up smaller?
10:03AM 9 A. From California to Vegas or Utah. And then from there,
10:03AM 10 you put them in a tractor-trailer.
10:03AM 11 Q. So then it gets consolidated on to a large truck?
10:03AM 12 A. Correct.
10:03AM 13 Q. Okay. In terms of that delivery method, did it create a
10:03AM 14 larger delivery window for you?
10:03AM 15 Do you understand my question?
10:03AM 16 A. Yes. Because I didn't have direct contact with Santiago
10:03AM 17 Gale, so in -- but T.S., it wasn't specific either, it was
10:03AM 18 he'll be within a three-day timeframe, so --
10:03AM 19 Q. You just had to be ready for a call within a three-day
10:03AM 20 window?
10:03AM 21 A. Correct.
10:03AM 22 Q. And contrast that with Mark Kagan. Mark Kagan was
10:03AM 23 delivering it himself?
10:03AM 24 A. Yes, he would call me when he was leaving, and then he'd
10:03AM 25 be there within seven hours.

10:03AM 1 Q. So, you knew -- did you basically know if Kagan wasn't
10:03AM 2 there within seven hours, something was wrong?

10:04AM 3 A. Yes.

10:04AM 4 Q. Okay. Did you know the different drivers that were going
10:04AM 5 to be coming to you from Utah or Las Vegas --

10:04AM 6 A. No.

10:04AM 7 Q. -- for Santiago Gale?

10:04AM 8 A. No.

10:04AM 9 Q. How would you remain in contact with either Gale or --
10:04AM 10 who was your point of contact when the deliveries were
10:04AM 11 coming?

10:04AM 12 A. It was T.S.

10:04AM 13 Q. Okay.

10:04AM 14 A. I only met Gale once and spoke to him once.

10:04AM 15 Q. Okay. So, T.S. was handling the logistics of the
10:04AM 16 delivery to you?

10:04AM 17 A. Correct.

10:04AM 18 Q. Were you and he using burner phones?

10:04AM 19 A. Yes.

10:04AM 20 Q. By the time you're dealing with Gale, are you -- are you
10:04AM 21 done dealing with Mark Kagan?

10:04AM 22 A. Yes.

10:04AM 23 Q. Had he lost his ability to supply you?

10:04AM 24 A. Correct.

10:04AM 25 Q. Do you know why?

10:04AM 1 A. He didn't really explain.

10:04AM 2 Q. Okay. So with large delivery windows and not personally
10:05AM 3 knowing the person driving it to you, did that create more
10:05AM 4 uncertainty for you?

10:05AM 5 A. Yes.

10:05AM 6 Q. Did that create an interest for you in obtaining more
10:05AM 7 information and more vigilance from this defendant?

10:05AM 8 A. Yes.

10:05AM 9 Q. I'm going to circle back to that in just a moment. But
10:05AM 10 when you were coordinating the receipt of the 200-pound
10:05AM 11 shipments of marijuana with T.S., where would you receive
10:05AM 12 delivery of the trucks?

10:05AM 13 A. He would bring it -- he would go meet whoever, and then
10:05AM 14 he'd bring it to me at my house.

10:05AM 15 Q. So T.S. unloaded it from the larger truck to a smaller
10:05AM 16 vehicle?

10:05AM 17 A. Correct.

10:05AM 18 Q. And when you said T.S. would bring it to your house, what
10:05AM 19 house is that?

10:05AM 20 A. It would be on 697 Lebrun.

10:05AM 21 Q. Okay. And when T.S. would deliver the 200 pounds, would
10:06AM 22 you provide payment at that point, or were you being fronted
10:06AM 23 the marijuana?

10:06AM 24 A. Sometimes I'd give some cash, but I was also being
10:06AM 25 fronted.

10:06AM 1 Q. So you'd provide partial payment?

10:06AM 2 A. Yes.

10:06AM 3 Q. In total, how many 200-pound shipments did you receive
10:06AM 4 from Santiago Gale through T.S.?

10:06AM 5 A. I'd say at least five, if not ten.

10:06AM 6 Q. And you're partnered up with Mike Masecchia at this
10:06AM 7 point?

10:06AM 8 A. Yes.

10:06AM 9 Q. Fair to say he's involved in all aspects of your
10:06AM 10 operation?

10:06AM 11 A. Yes.

10:06AM 12 Q. In 2011, did you also travel to Las Vegas with
10:06AM 13 Mr. Masecchia?

10:06AM 14 A. Yes.

10:06AM 15 Q. Did your brother Tom go with you?

10:06AM 16 A. Yes.

10:06AM 17 Q. I'd like to take a step back from the Santiago Gale
10:07AM 18 distribution for a moment and ask a few more questions about
10:07AM 19 Mr. Masecchia and his connections, okay?

10:07AM 20 A. Okay.

10:07AM 21 Q. Over -- over time, through Masecchia, have you had
10:07AM 22 sit-downs with several individuals that he introduced you to
10:07AM 23 that you understood to be connected to Italian Organized
10:07AM 24 Crime?

10:07AM 25 A. Yes.

10:07AM 1 Q. And were those sit-downs arranged by Mr. Masecchia to see
10:07AM 2 if you could acquire even more sources of supply for
10:07AM 3 marijuana?
10:07AM 4 A. Yes.
10:07AM 5 Q. In one of the meetings, did you sit down with Masecchia
10:07AM 6 and Butchie Bifocal?
10:07AM 7 A. Yes.
10:07AM 8 Q. And who did you discuss getting marijuana from at that
10:07AM 9 time?
10:07AM 10 A. From Percy Gamble, I'm not sure -- is it Percy Gamble? I
10:07AM 11 know his name is Percy, in Canada.
10:07AM 12 Q. As you understood it, was Percy connected to Italian
10:08AM 13 Organized Crime?
10:08AM 14 A. Yes.
10:08AM 15 Q. What was the general timeframe of that meeting and
10:08AM 16 discussion?
10:08AM 17 A. It was 2014, I believe.
10:08AM 18 Q. Okay. So we fast forwarded a little bit?
10:08AM 19 A. Yes.
10:08AM 20 Q. Ultimately, did you determine Percy's prices were too
10:08AM 21 high?
10:08AM 22 A. Yes.
10:08AM 23 Q. And did you feel like you had a better connection at that
10:08AM 24 time?
10:08AM 25 A. Yes.

10:08AM 1 Q. Why did you feel like his prices were too high and you
10:08AM 2 didn't want to go with him?

10:08AM 3 A. Well, because I was -- it was the same price in Canada,
10:08AM 4 and I was responsible for getting it over, as the price that
10:08AM 5 I get it delivered to me in Buffalo.

10:08AM 6 Q. So you were responsible for transport over an
10:08AM 7 international border?

10:08AM 8 A. Correct.

10:08AM 9 Q. At some point, did you also have a sit-down with a guy
10:08AM 10 named John Catanzaro?

10:08AM 11 A. Yes.

10:08AM 12 Q. Approximately when was that?

10:08AM 13 A. That was somewhere in the early 2000s.

10:08AM 14 Q. So, much earlier in your career?

10:08AM 15 A. Yes.

10:08AM 16 Q. What was your understanding of the relationship,
10:09AM 17 familial, or otherwise, between Butchie Bifulco and Mike
10:09AM 18 Masecchia?

10:09AM 19 A. It was Mike's godfather.

10:09AM 20 Q. Was it your understanding that Butchie was a member of
10:09AM 21 Italian Organized Crime in Buffalo?

10:09AM 22 A. Yes.

10:09AM 23 Q. That was his reputation?

10:09AM 24 A. Yes.

10:09AM 25 Q. What did Mike tell you, if anything, about his father's

10:09AM 1 connection to Italian Organized Crime in Buffalo?

10:09AM 2 A. That his father was connected to organized crime.

10:09AM 3 Q. At some point during your partnership with Masecchia out

10:09AM 4 of curiosity, did you ask him questions about what it took to

10:09AM 5 become a made person?

10:09AM 6 A. Yes.

10:09AM 7 Q. What was Masecchia's response to you?

10:10AM 8 A. He told me to just shut up and keep making money.

10:10AM 9 Q. Working with Masecchia, was your ultimate goal to control

10:10AM 10 the entire marijuana market in Buffalo?

10:10AM 11 A. Yes.

10:10AM 12 Q. Getting back to Santiago Gale.

10:10AM 13 Did you discuss this new delivery method, the large

10:10AM 14 trucks, did you discuss that delivery method with Masecchia?

10:10AM 15 A. Yes.

10:10AM 16 Q. What did Masecchia say about that?

10:10AM 17 A. Well, I just asked him to ask Joe to be more vigilant

10:10AM 18 about shipments coming in from Utah or Las Vegas.

10:10AM 19 Q. And when you asked Masecchia to make sure Joe was more

10:10AM 20 vigilant about trucks coming in from Utah or Las Vegas, what

10:10AM 21 were you asking for?

10:10AM 22 A. Just to see if that -- if he hears anything about

10:11AM 23 shipments coming in that are about to be busted.

10:11AM 24 Q. What did Mike say when you made that request?

10:11AM 25 A. He said he'd talk to Joe.

10:11AM 1 Q. Meaning Joe Bongiovanni?

10:11AM 2 A. Yes.

10:11AM 3 Q. Would you say you and -- both you and Masecchia were

10:11AM 4 highly motivated to make sure those trucks made it in safely?

10:11AM 5 A. Yes.

10:11AM 6 Q. After Masecchia told you he would talk to Joe, eventually

10:11AM 7 did he come back and tell you what Defendant Bongiovanni

10:11AM 8 said?

10:11AM 9 A. Yes.

10:11AM 10 Q. What did Masecchia explain to you?

10:11AM 11 A. He said that he would do it, but I'd have to pay another

10:11AM 12 \$2,000 a month.

10:11AM 13 Q. Based on your discussions with Masecchia, was Lou Selva

10:11AM 14 also part of that negotiation?

10:12AM 15 A. Yes.

10:12AM 16 Q. So did you want information about investigations into

10:12AM 17 cross-country trucking?

10:12AM 18 A. Correct.

10:12AM 19 Q. Did you want information about informants?

10:12AM 20 A. Correct.

10:12AM 21 Q. Did you want assurances there were no wiretaps on your

10:12AM 22 and Masecchia's main phones?

10:12AM 23 A. Correct.

10:12AM 24 Q. Did you want assurance that none of your main associates

10:12AM 25 had their phones tapped?

10:12AM 1 A. Correct.

10:12AM 2 Q. Did you want -- did you expect and did you want a

10:12AM 3 heads-up if anyone was looking at your residence at 697

10:12AM 4 Lebrun?

10:12AM 5 A. Correct.

10:12AM 6 Q. Now, as you're working with Santiago Gale through T.S.,

10:12AM 7 eventually did you provide access to T.S. to your warehouse

10:13AM 8 at 82 Sycamore?

10:13AM 9 A. Yes.

10:13AM 10 Q. What was the reason you provided access to T.S. to your

10:13AM 11 warehouse at 82 Sycamore?

10:13AM 12 A. It was to store his motorcycles. To store his

10:13AM 13 motorcycle.

10:13AM 14 Q. He rides motorcycles?

10:13AM 15 A. Yes.

10:13AM 16 Q. He asked you if he can keep his motorcycle there?

10:13AM 17 A. Correct.

10:13AM 18 Q. I think it faded out. Can you just repeat it again?

10:13AM 19 A. Correct.

10:13AM 20 Q. Sometimes the mic's not working.

10:13AM 21 At some point in or around 2011, did you -- did you find

10:13AM 22 out that T.S. was actually storing firearms and a decent

10:13AM 23 amount of marijuana at your warehouse?

10:13AM 24 A. Yes.

10:13AM 25 Q. How did you find that out?

10:13AM 1 A. My friend Rob Rine told me.

10:13AM 2 Q. Who's Rob Rine? I don't know if we've heard that name

10:14AM 3 yet.

10:14AM 4 A. A friend of mine that I used to hang out with.

10:14AM 5 Q. Is he someone who knew T.S.?

10:14AM 6 A. Yes.

10:14AM 7 Q. After Rob Rine told you T.S. was storing just more than

10:14AM 8 his motorcycle at your warehouse, what did you do?

10:14AM 9 A. I robbed him.

10:14AM 10 Q. Did you get upset?

10:14AM 11 A. Yes, I got real upset.

10:14AM 12 Q. Were you -- why were you upset T.S. was storing guns and

10:14AM 13 marijuana at your warehouse?

10:14AM 14 A. Because he didn't --

10:14AM 15 I don't think the microphone is on.

10:14AM 16 Q. Yeah. Can you just try to speak up? Do your best.

10:14AM 17 A. Okay. Well, because he didn't tell me that he was

10:14AM 18 storing it there, so it made me angry. And I also stored

10:14AM 19 tools there, and my father and some of my employees would go

10:14AM 20 there for my real estate.

10:14AM 21 Q. So, you had actual real estate projects you were working

10:14AM 22 on?

10:15AM 23 A. Yes.

10:15AM 24 Q. Your father is the one who taught you carpentry?

10:15AM 25 A. Correct.

1 Q. So when you learned that he had marijuana and guns in
2 there, you weren't happy with that at that time?

3 A. I was not.

4 Q. So, did you -- did you and Rob Rine come up with a ruse
5 to take that marijuana and those guns?

6 A. Yes.

7 Q. What was the ruse you came up with?

8 A. Rob Rine knew a Tonawanda police detective, and he
9 made -- and the detective made a fake warrant to make it look
10 like the warehouse got raided.

11 Q. Did Rine ever tell you who this Town of Tonawanda
12 detective was?

13 A. No.

14 Q. Did Rine show you, like, what looked like a legitimate
15 search warrant?

16 A. Yes.

17 Q. So how did you guys use this fake search warrant to take
18 that marijuana and those guns?

19 A. Well, Rob was at my house, and he called T.S. over and he
20 showed him the warrant. And he kept Tom at my house while he
21 was there, and I broke in the safe.

22 Q. And so how much marijuana did you take, remove?

23 A. It was 29 pounds and a MAC-10 gun.

24 Q. As you understood it, was that marijuana that had come
25 from Santiago Gale?

1 A. Yes.

2 Q. Ultimately, what did you do with that MAC-10 gun?

3 A. Gave it to Mike Masecchia.

4 Q. What did you do with the 29 pounds of marijuana?

5 A. I sold it.

6 **THE COURT:** Colleen, can you call somebody to get
7 this fixed?

8 **THE CLERK:** Yeah, I texted them, Judge. They can do
9 it the background.

10 **BY MR. TRIPI:**

11 Q. What did -- sorry?

12 **THE COURT:** I apologize for interrupting. I want to
13 get this thing fixed, though.

14 **MR. TRIPI:** No, it's okay, Judge. Yeah.

15 **THE COURT:** Maddening.

16 **MR. TRIPI:** Work with us, do your best to keep your
17 voice up until we get that remedied, okay?

18 **THE WITNESS:** Okay. No problem.

19 **MR. TRIPI:** Sometimes you might yell at us when it
20 gets plugged back in, but we'll do our best.

21 **BY MR. TRIPI:**

22 Q. Did -- did you and Rob Rine sort of gloss it over with
23 Santiago Gale -- withdrawn -- with T.S.?

24 A. Gloss over the --

25 Q. Did T.S. know that you actually took the marijuana right

10:17AM 1 away?

10:17AM 2 A. At the time, no.

10:17AM 3 Q. Okay. Did he have to answer for that marijuana with his
10:17AM 4 boss, Santiago Gale, if you know?

10:17AM 5 A. I believe so. Well, he owed him the money.

10:17AM 6 Q. Okay. Eventually, did you and T.S. continue to work
10:17AM 7 together after that?

10:17AM 8 A. A little bit. A few times.

10:17AM 9 Q. Eventually, did you pay -- withdrawn.

10:17AM 10 **MR. MacKAY:** I'm sorry, I just didn't hear the
10:17AM 11 answer.

10:17AM 12 **MR. TRIPI:** He said a little bit.

10:17AM 13 **THE CLERK:** Judge, I think I can hook up a wireless
10:17AM 14 mic and I'll shut his mic off.

10:17AM 15 **MR. TRIPI:** Hold that thought, and we'll pick it up.

10:17AM 16 **THE CLERK:** I'm sorry.

10:17AM 17 **MR. TRIPI:** No, you're good.

10:18AM 18 **BY MR. TRIPI:**

10:18AM 19 Q. Eventually did T.S., over time, sort of put two and two
10:18AM 20 together and figure that you took the weed?

10:18AM 21 A. Yes.

10:18AM 22 Q. Did you make it up to him? Did you pay him back some
10:18AM 23 money?

10:18AM 24 A. I did pay him back some money.

10:18AM 25 Q. How much money did you pay back T.S.?

10:18AM 1 A. Around 30,000.

10:18AM 2 **MR. MacKAY:** I'm sorry, what was the number?

10:18AM 3 **THE WITNESS:** 30,000.

10:18AM 4 **BY MR. TRIPI:**

10:18AM 5 Q. After that event and Santiago Gale was no longer in the
10:18AM 6 picture as a supplier, did T.S. sort of travel back and forth
10:18AM 7 from Utah back into New York?

10:18AM 8 A. Yes.

10:18AM 9 Q. Did you continue to work with him getting marijuana
10:18AM 10 through him at times?

10:19AM 11 A. Yes.

10:19AM 12 Q. As time went on, did he also travel to you, with you and
10:19AM 13 Masecchia to New York City?

10:19AM 14 A. Yes.

10:19AM 15 Q. Was that to obtain marijuana?

10:19AM 16 A. Yes.

10:19AM 17 Q. Was that after you had made a connection with Jarrett
10:19AM 18 Guy?

10:19AM 19 A. Yes.

10:19AM 20 Q. Okay. I'll get more into the Jarrett Guy distribution in
10:19AM 21 a moment. But at this juncture, who introduced you to
10:19AM 22 Jarrett Guy?

10:19AM 23 A. Mark Kagan.

10:19AM 24 Q. That was the same Mark Kagan who used to supply you,
10:19AM 25 himself directly, correct?

10:19AM 1 A. Yes.

10:19AM 2 Q. Where did you first meet Jarrett Guy?

10:19AM 3 A. In New York City.

10:19AM 4 **THE WITNESS:** This mic isn't working now.

10:19AM 5 **MR. SINGER:** I'm having difficulty hearing anything,
10:19AM 6 Judge, sorry.

10:19AM 7 **THE COURT:** You really have to keep your voice up. I
10:19AM 8 think both -- it's not the microphone, it's the whole sound
10:20AM 9 system, it shuts down.

10:20AM 10 **MR. TRIPI:** Got you.

10:20AM 11 **BY MR. TRIPI:**

10:20AM 12 Q. Mark Kagan's in New York City, did you say?

10:20AM 13 A. Yes.

10:20AM 14 **MR. TRIPI:** Mine seems to be working, so I'm just --

10:20AM 15 **THE WITNESS:** Yeah.

10:20AM 16 **BY MR. TRIPI:**

10:20AM 17 Q. And approximately when was that meeting?

10:20AM 18 A. That was late 2012, I believe.

10:20AM 19 Q. Okay. Now, as time's going on, you're moving on from
10:20AM 20 Santiago Gale. Late 2012, you deal with Jarrett Guy.

10:20AM 21 In November of 2012, did you arrange a source of supply
10:20AM 22 that was coming in through Frank Burkhardt?

10:20AM 23 A. Yes.

10:20AM 24 Q. And who was going to be receiving delivery of that
10:20AM 25 marijuana intended to you?

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1 A. Wayne Anderson.

2 Q. Okay. I'm going to get to that next.

3 But by this point in time, by 2012, you've been paying

4 the defendant for several years now, right?

5 A. Yes.

6 Q. And I think you said by 2011 or so, it had bumped up to

7 about \$4,000 a month?

8 A. Yes.

9 Q. Over time, did you provide names of associates of yours

10 that were distributing controlled substances, marijuana, to

11 Mike Masecchia, to pass along to Lou Selva and ultimately to

12 the defendant?

13 A. Yes.

14 Q. How would you provide the names and phone numbers of your

15 associates that you wanted their phones checked out?

16 A. I'd give them to Mike Masecchia.

17 Q. Did you write it on a list?

18 A. Yes.

19 Q. Did you give that list to Masecchia?

20 A. Yes.

21 Q. Was it your understanding Masecchia was going to pass

22 that list to Selva?

23 A. Yes.

24 Q. Ultimately for the defendant to check it out?

25 A. Yes.

10:21AM 1 Q. Was John Robinson someone's phone number you provided?

10:21AM 2 A. Yes.

10:21AM 3 Q. Was Chris Baker someone's phone number you provided?

10:22AM 4 A. Yes.

10:22AM 5 Q. Was Mike Buttitta someone's phone number you provided?

10:22AM 6 A. Yes.

10:22AM 7 Q. Was Mark Vitale someone's phone number you provided?

10:22AM 8 A. Yes.

10:22AM 9 Q. Was Mark Falzone someone's phone number you provided?

10:22AM 10 A. Yes.

10:22AM 11 Q. Was Mario Vacanti?

10:22AM 12 A. Yes.

10:22AM 13 Q. Was Jay Campbell?

10:22AM 14 A. Yes.

10:22AM 15 Q. I haven't asked you about Jay Campbell yet. Who was

10:22AM 16 that?

10:22AM 17 A. That was just another person I dealt with.

10:22AM 18 Q. And what type of drugs did you deal with Jay Campbell?

10:22AM 19 A. Just marijuana.

10:22AM 20 Q. Okay. Was Mike Moynihan someone's name and phone number

10:22AM 21 you provided?

10:22AM 22 A. Yes.

10:22AM 23 Q. Now, eventually did Moynihan start living at 697 Lebrun

10:22AM 24 with you?

10:22AM 25 A. Yes.

10:22AM 1 Q. What year was that?

10:22AM 2 A. That was, I believe, 2015.

10:22AM 3 Q. Okay. But he had been a close friend of yours basically

10:22AM 4 your whole adult life?

10:22AM 5 A. Yes.

10:22AM 6 Q. Was Adrian Fina someone's name and phone number you

10:22AM 7 provided?

10:22AM 8 A. Yes.

10:22AM 9 Q. Did you provide your main cell phone number?

10:22AM 10 A. Yes.

10:22AM 11 Q. Did Masecchia provide his main cell phone number?

10:22AM 12 A. I would assume.

10:22AM 13 Q. Did Masecchia provide your brother Tom's main cell phone

10:23AM 14 number?

10:23AM 15 A. Yes.

10:23AM 16 Q. Can you estimate how many lists and numbers you passed

10:23AM 17 along over time?

10:23AM 18 A. I'd be guessing. But I would say at least five.

10:23AM 19 Q. Was it more than one?

10:23AM 20 A. It's definitely more than one.

10:23AM 21 Q. Okay. Was your purpose in passing those lists to make

10:23AM 22 sure your phone was not on a wiretap?

10:23AM 23 A. Correct.

10:23AM 24 Q. Did you know people by that point in your drug dealing

10:23AM 25 career who, in the past, had been caught on a wiretap?

10:23AM 1 A. Yes.

10:23AM 2 Q. Who were some people that you knew in life that had been

10:23AM 3 caught on wiretaps, as you understood it?

10:23AM 4 A. I know that Dave Gambino was.

10:23AM 5 Q. Okay. Now, you mentioned Wayne Anderson just a moment

10:23AM 6 ago. I'd like to delve into that a little more, okay?

10:24AM 7 A. Yes.

10:24AM 8 Q. I think as you indicated Monday, you were consistently

10:24AM 9 looking for additional sources of supply?

10:24AM 10 A. Correct.

10:24AM 11 Q. In short, did you believe you had an ability to move as

10:24AM 12 much marijuana as you could get your hands on?

10:24AM 13 A. Yes.

10:24AM 14 Q. So, who is Wayne Anderson?

10:24AM 15 A. Wayne Anderson was a friend of Frank Burkhart. Also a

10:24AM 16 friend of Mike Masecchia.

10:24AM 17 Q. Who introduced you to Wayne Anderson?

10:24AM 18 A. I met Wayne years before through Mike Buttitta. But just

10:24AM 19 saying hi, nothing -- no business.

10:24AM 20 Q. By November of 2012, approximately how long had you known

10:24AM 21 Wayne Anderson?

10:24AM 22 A. 2012? Probably 15 years.

10:24AM 23 Q. Okay. What was your understanding of how well Mike

10:25AM 24 Masecchia and Wayne Anderson knew each other?

10:25AM 25 A. That they grew up together.

10:25AM 1 Q. Did you have any understanding of the relationship
10:25AM 2 between Wayne Anderson and the defendant?

10:25AM 3 A. No, I did not.

10:25AM 4 Q. Did you have any understanding of the relationship
10:25AM 5 between Lou Selva and Wayne Anderson?

10:25AM 6 A. No, I did not.

10:25AM 7 Q. Okay. But you knew Frank Burkhardt and Mike Masecchia
10:25AM 8 were friends with Wayne Anderson?

10:25AM 9 A. Correct.

10:25AM 10 Q. Now, in or about November of 2012, did you learn that
10:25AM 11 Wayne Anderson and Damien Abbate were arrested?

10:25AM 12 A. Yes.

10:25AM 13 Q. You touched on this a little bit earlier today, but who
10:25AM 14 told you they were arrested?

10:25AM 15 A. It was Mike Masecchia.

10:25AM 16 Q. Do you know how Masecchia learned it initially?

10:25AM 17 A. That he was driving by the general area, Wayne lives off
10:25AM 18 of Elmwood.

10:25AM 19 Q. The day they got arrested, did you and Masecchia have an
10:26AM 20 understanding that a load of marijuana was coming in intended
10:26AM 21 for you?

10:26AM 22 A. Yes.

10:26AM 23 Q. Did you know it was coming that day?

10:26AM 24 A. I didn't know it was coming that day.

10:26AM 25 Q. Okay. Who was handling the logistics of the delivery and

10:26AM 1 receipt?

10:26AM 2 A. Wayne Anderson.

10:26AM 3 Q. What did Masecchia tell you when he -- withdrawn.

10:26AM 4 Did Masecchia indicate that he saw police activity at

10:26AM 5 Anderson's house?

10:26AM 6 A. Yes.

10:26AM 7 Q. What did he tell you when he -- when he talked to you?

10:26AM 8 A. When I met up with him, that he was just going to find

10:26AM 9 out if everything was okay.

10:26AM 10 Q. So initially, I guess that's a poor question on my part,

10:26AM 11 initially did Masecchia call you and set up a meeting?

10:26AM 12 A. Yes.

10:26AM 13 Q. You didn't talk about it over the phone?

10:26AM 14 A. No.

10:26AM 15 Q. Where did you meet to discuss the police activity at

10:26AM 16 Anderson's house?

10:26AM 17 A. I believe it was my house.

10:26AM 18 Q. When you say "my house," are you referencing 697 Lebrun?

10:26AM 19 A. Yes.

10:27AM 20 Q. Did you meet with Masecchia the same day he saw the

10:27AM 21 police activity?

10:27AM 22 A. Yes.

10:27AM 23 Q. What was your discussion with Masecchia about the police

10:27AM 24 activity at Wayne Anderson's house that he observed?

10:27AM 25 A. Just that I was concerned.

10:27AM 1 Q. What did Masecchia say to you?

10:27AM 2 A. That he was in gonna find out what was going on.

10:27AM 3 Q. Find out from who?

10:27AM 4 A. Joe Bongiovanni.

10:27AM 5 Q. Did you want to know if everything was going to be okay?

10:27AM 6 A. Yes.

10:27AM 7 Q. After you had that initial discussion, the same day that

10:27AM 8 Masecchia saw the police activity at Wayne Anderson's house,

10:27AM 9 did Masecchia get back to you with word from the defendant?

10:27AM 10 A. The next day.

10:28AM 11 Q. What did Masecchia tell you?

10:28AM 12 A. He said everything's okay.

10:28AM 13 Q. What was your understanding of how Masecchia determined

10:28AM 14 everything was okay?

10:28AM 15 A. That he contacted Lou, and Lou talked to Joe.

10:28AM 16 Q. But the person who talked to you was Masecchia?

10:28AM 17 A. Yes.

10:28AM 18 Q. After Masecchia told you everything was okay, did anyone

10:28AM 19 from the DEA ever come and ask you questions about Wayne

10:28AM 20 Anderson's marijuana seizure?

10:28AM 21 A. No.

10:28AM 22 Q. Did Defendant Joe Bongiovanni ever come to you and ask

10:28AM 23 you questions about Wayne Anderson or the marijuana seizure?

10:28AM 24 A. No.

10:28AM 25 Q. Even though you were advised everything was okay, did you

10:29AM 1 pause your operations for a little bit?

10:29AM 2 A. Yes.

10:29AM 3 Q. Is this the same window of time you were starting to

10:29AM 4 negotiate with Jarrett Guy?

10:29AM 5 A. Yes.

10:29AM 6 Q. After a brief delay, did you start back up?

10:29AM 7 A. Yes.

10:29AM 8 Q. And, I guess, start back up distributing?

10:29AM 9 A. Correct.

10:29AM 10 Q. Now I think on Monday you said sometime around 2012 or

10:29AM 11 2013, Masecchia took a break from those outdoor grows; do you

10:29AM 12 remember that?

10:29AM 13 A. Yes.

10:29AM 14 Q. Was that break that Masecchia took from the outdoor grows

10:29AM 15 in Angelica and Franklinville, was that after the Wayne

10:30AM 16 Anderson arrest, if you know?

10:30AM 17 A. Yes. I believe it was Humphrey, not Angelica.

10:30AM 18 Q. Is Humphrey a town in the Cattaraugus County area?

10:30AM 19 A. Correct.

10:30AM 20 Q. Is it somewhere near Morgan Hollow Road?

10:30AM 21 A. Yes. It's, like, the next town over.

10:30AM 22 Q. Okay. After you laid low for a little bit, did you

10:30AM 23 continue up and -- and consummate the relationship,

10:30AM 24 distribution activity with Jarrett Guy?

10:30AM 25 A. Yes.

1 Q. In terms of an estimate, would you estimate that you
2 dealt with Jarrett Guy, the person based out of Vancouver,
3 Canada, as your main supplier from approximately, you know,
4 beginning of 2013 after that Wayne Anderson situation until
5 your arrest in April of 2017?

6 A. Correct.

7 Q. Can you describe for the jury the different shipment
8 methods that, how -- how -- how drugs got to you from Jarrett
9 Guy?

10 A. From Jarrett Guy, sometimes it would just be maybe 50
11 pounds to hold me over, someone would drive it. Sometimes it
12 would come wrapped in big bales of mulch. And then sometimes
13 there was tractor trailers where they were hidden in the
14 floorboards, where there was a hydraulic lift that would
15 lifted the floor up.

16 Q. For a period, did some shipments come by the U.S. Postal
17 Service, right in the mail?

18 A. Yes, they had a hotel, they would have a courier stay at
19 the hotel and just mail it to the courier.

20 Q. What do you mean by a courier?

21 A. Just somebody that they paid to sign for the packages.

22 Q. Okay. As you understood it did some of those, or one, or
23 more of those shipments get intercepted?

24 A. Yes.

25 Q. Did a courier get arrested, if you know?

10:32AM 1 A. Yes.

10:32AM 2 Q. But the investigation never progressed past the courier?

10:32AM 3 A. No.

10:32AM 4 Q. So, then I'd like you to go into more detail. Describe
10:32AM 5 the different shipping methods using vehicles and trucks and
10:32AM 6 the routes, if you can describe that for the jury.

10:32AM 7 A. So, for the mulch, it would start in Vancouver. And they
10:32AM 8 would, like, kind of shrink wrap a bale of mulch. It was 4
10:32AM 9 foot by 4 foot by 4 foot. And you cut it open, the marijuana
10:33AM 10 would just fall out, the mulch would fall out and you'd pick
10:33AM 11 through it. And that would come from Vancouver to Kean,
10:33AM 12 New Jersey. And then from Kean, New Jersey they would have a
10:33AM 13 U-Haul truck bring it to me here.

10:33AM 14 And then the other -- with the tractor-trailer, it would
10:33AM 15 start off in Vancouver to Toronto. And would come over the
10:33AM 16 border, and I would have it at a loading dock and unload it.

10:33AM 17 Q. Okay. And were there times with using the mulch method
10:33AM 18 where they would shrink wrap the mulch, are you saying the
10:33AM 19 mulch was a cover load for the marijuana?

10:33AM 20 A. Yes.

10:33AM 21 Q. So, if that truck got pulled over, it would look like
10:33AM 22 someone is transporting a bale of mulch?

10:33AM 23 A. Correct.

10:33AM 24 Q. And the marijuana was in shrinkwrapped packages hidden
10:33AM 25 inside the mulch?

10:33AM

1 A. Correct.

10:33AM

2 Q. Were they 1- or 2-pound packages?

10:33AM

3 A. 1-pound packages.

10:33AM

4 Q. Now, you indicated with the mulch method that the trucks

10:34AM

5 went to Kean, New Jersey, and then were transferred to a

10:34AM

6 U-Haul?

10:34AM

7 A. Yes.

10:34AM

8 Q. Were there times, though, when you would also, yourself,

10:34AM

9 travel with others to the New York City area to take delivery

10:34AM

10 as opposed to the U-Haul driving to Buffalo?

10:34AM

11 A. Yes.

10:34AM

12 Q. Okay. So that involved how many trips to New York City

10:34AM

13 for you to pick up marijuana, would you estimate?

10:34AM

14 A. I'd say at least 20.

10:34AM

15 Q. 20 on the low end?

10:34AM

16 A. On the low end.

10:34AM

17 Q. And then you described another delivery method that was

10:34AM

18 in larger tractor-trailer trucks from Vancouver to Toronto.

10:34AM

19 And then how would they get into Buffalo?

10:34AM

20 A. They would just cross the border, the truck driver.

10:34AM

21 Q. Was there -- was there sort of high-tech hydraulics used

10:34AM

22 to hide the marijuana in these trucks?

10:34AM

23 A. Yes.

10:34AM

24 Q. Explain that for the jury. How did it get over the

10:35AM

25 border?

10:35AM 1 A. So they would take the back plate --

10:35AM 2 How they got over the border, or once they got it?

10:35AM 3 Q. How was the marijuana concealed?

10:35AM 4 A. It was concealed under the floorboards, because they said
10:35AM 5 there was an anomaly that x-ray couldn't detect it.

10:35AM 6 Q. And when you would receive it from these larger
10:35AM 7 tractor-trailer trucks, how would you receive the marijuana?
10:35AM 8 How did you get it out of this -- this location?

10:35AM 9 A. I loaded it into my car and take it out.

10:35AM 10 Q. How did it get from in between the floorboards?

10:35AM 11 A. Oh. We'd take off the back plate, and we hook up a
10:35AM 12 battery, and it would lift the floor up and then we'd remove
10:35AM 13 the marijuana.

10:35AM 14 Q. So there was, like, a hydraulic lift?

10:35AM 15 A. Correct.

10:35AM 16 Q. So the manner in which it was concealed in those trucks
10:35AM 17 successfully defeated whatever was set up at the border to
10:35AM 18 detect it?

10:35AM 19 A. Yes.

10:36AM 20 Q. I'd like to hone in on the portions of the -- the time
10:36AM 21 where you had to go to actually to New York City to meet and
10:36AM 22 get the marijuana. Okay?

10:36AM 23 A. Yes.

10:36AM 24 Q. Did Jarrett Guy have different people that you would meet
10:36AM 25 with in the New York City area when it came time to pick up?

10:36AM

1 A. Yes.

10:36AM

2 Q. Did you go to different parts of New York City?

10:36AM

3 A. Yes.

10:36AM

4 Q. Did you go there with different people helping you on

10:36AM

5 those trips?

10:36AM

6 A. Yes.

10:36AM

7 Q. Just generally, when you had to go to New York City to

10:36AM

8 pick up marijuana, how would you structure the trips? And

10:36AM

9 when would you go? And did you have a technique for getting

10:36AM

10 the weed back safely?

10:36AM

11 A. I would personally drive the marijuana, because I only

10:36AM

12 trusted myself to do it. But I'd have someone follow me in

10:36AM

13 case law enforcement got behind me to kind of do something to

10:36AM

14 get them pulled over to deflect from me.

10:37AM

15 Q. So to -- to put a finer point on it, did -- did you have

10:37AM

16 other people come with you as, like, a follow car?

10:37AM

17 A. Yes.

10:37AM

18 Q. Over time, had a number of different people gone with you

10:37AM

19 to New York City to pick up marijuana?

10:37AM

20 A. Yes.

10:37AM

21 Q. Did it involve two vehicles in the way you just described

10:37AM

22 every time?

10:37AM

23 A. Yes.

10:37AM

24 Q. Who did you have discussions with that that was a better

10:37AM

25 way to do it?

10:37AM 1 A. The people that I was going with.

10:37AM 2 Q. Is Mike Masecchia someone who went on those trips with

10:37AM 3 you?

10:37AM 4 A. Yes.

10:37AM 5 Q. How many times did Masecchia travel with you to pick up

10:37AM 6 marijuana from New York City?

10:37AM 7 A. At least five, not more than ten.

10:37AM 8 Q. So between five and ten?

10:37AM 9 A. Yes.

10:37AM 10 Q. Did Mark Falzone go with you?

10:38AM 11 A. Yes.

10:38AM 12 Q. How many times did Mark Falzone go with you?

10:38AM 13 A. He was probably less than five.

10:38AM 14 Q. Did Mike Moynihan go with you?

10:38AM 15 A. Yes.

10:38AM 16 Q. How many times did he go with you?

10:38AM 17 A. Over five.

10:38AM 18 Q. Did T.S. go with you?

10:38AM 19 A. Yes.

10:38AM 20 Q. How many times did he go?

10:38AM 21 A. A couple times.

10:38AM 22 Q. When T.S. went with you, was there one trip where

10:38AM 23 Masecchia also went?

10:38AM 24 A. Yes.

10:38AM 25 Q. And these trips with Masecchia -- and this trip with

10:38AM 1 Masecchia and T.S., you're getting sourced now by Jarrett
10:38AM 2 Guy; is that right?
10:38AM 3 A. No, that time, T.S. knew somebody that was like a new
10:38AM 4 connection that he was trying out.
10:38AM 5 Q. Okay. How many times -- you said a couple of times on
10:38AM 6 the other occasion that T.S. went with you?
10:38AM 7 A. Yes.
10:38AM 8 Q. Did "a couple" mean two?
10:38AM 9 A. Sorry?
10:38AM 10 Q. Are you estimating? How many times for T.S.?
10:39AM 11 A. Two times.
10:39AM 12 Q. On the other occasion, was it weed you were getting from
10:39AM 13 Guy?
10:39AM 14 A. Yes.
10:39AM 15 Q. Okay. Did John Robinson go with you?
10:39AM 16 A. Yes.
10:39AM 17 Q. How many times?
10:39AM 18 A. A few times.
10:39AM 19 Q. On one of those trips, did Adrian Fina and your wife
10:39AM 20 Lauren go?
10:39AM 21 A. Yes.
10:39AM 22 Q. Could it have been three times for John Robinson?
10:39AM 23 A. Yes.
10:39AM 24 Q. Are you estimating here?
10:39AM 25 A. Yeah, I'm estimating.

10:39AM	1	Q. Did Mario Vacanti go with you?
10:39AM	2	A. Yes.
10:39AM	3	Q. How many times would you estimate he went?
10:39AM	4	A. More than five.
10:39AM	5	Q. More than five?
10:39AM	6	A. Yes.
10:39AM	7	Q. Did Matt LoTempio go with you?
10:39AM	8	A. Yes.
10:39AM	9	Q. How many times?
10:39AM	10	A. More than five.
10:39AM	11	Q. How many times did Lauren and Adrian go with you?
10:39AM	12	A. Just a few times.
10:39AM	13	Q. When they went, would they generally go together?
10:40AM	14	A. Yes.
10:40AM	15	Q. Did Anthony Gerace go with you?
10:40AM	16	A. One time, I believe.
10:40AM	17	Q. Anybody else I haven't asked you about that went with
10:40AM	18	you?
10:40AM	19	A. Not that I can think of.
10:40AM	20	Q. For the shipments that Guy was arranging to Buffalo, what
10:40AM	21	were the amounts of marijuana?
10:40AM	22	A. Between 100 and 300.
10:40AM	23	Q. Now, when you didn't have to go to New York City to get
10:40AM	24	it from Guy or his connection there, and when it came in
10:40AM	25	U-Hauls in the mulch as you described, did you take delivery

10:40AM 1 of the U-Haul shipments at various locations?

10:40AM 2 A. Yes.

10:40AM 3 Q. What different locations did you take delivery of the
10:41AM 4 U-Haul method where it was -- where it was hidden in the
10:41AM 5 mulch?

10:41AM 6 A. My house, 697 Lebrun. The 82 Sycamore location. And
10:41AM 7 Mark Falzone's house at 377 Englewood.

10:41AM 8 Q. So those are the locations for the U-Haul method,
10:41AM 9 correct?

10:41AM 10 A. Yes.

10:41AM 11 Q. Now, for the large tractor-trailers, did you need a
10:41AM 12 loading dock to be able to deal with what you were dealing
10:41AM 13 with when it came on the big trucks?

10:41AM 14 A. Yes.

10:41AM 15 Q. Did you know somebody who had a loading dock?

10:41AM 16 A. Anthony Gerace.

10:41AM 17 Q. How many times did you -- well, withdrawn.

10:41AM 18 Where was Anthony Gerace's loading dock?

10:41AM 19 A. On Aero Drive in Cheektowaga, I believe.

10:41AM 20 Q. And how many times did Anthony work with you to help you
10:41AM 21 unload at his loading dock?

10:41AM 22 A. I believe it was three times.

10:41AM 23 Q. Were those all 300-pound shipments in the big trucks?

10:42AM 24 A. Yes.

10:42AM 25 Q. Okay. All right. I want to get into a little more

10:42AM 1 specifics now.

10:42AM 2 You indicated Mark Falzone was someone who helped you --
10:42AM 3 in addition to traveling, he helped you unload shipments in
10:42AM 4 Buffalo; is that right?

10:42AM 5 A. Correct.

10:42AM 6 Q. You said his house is at 377 Englewood?

10:42AM 7 A. Yes.

10:42AM 8 Q. Is that in the Town of Tonawanda?

10:42AM 9 A. Yes.

10:42AM 10 Q. Did you pay Mark Falzone for helping you unload?

10:42AM 11 A. Yes.

10:42AM 12 Q. What'd you pay him?

10:42AM 13 A. It was like \$500, and he had first choice of whatever he
10:42AM 14 wanted of the marijuana.

10:42AM 15 Q. Okay. How many times did you take delivery at 377
10:42AM 16 Englewood at Falzone's house?

10:42AM 17 A. I want to say maybe three times.

10:42AM 18 Q. And was there an occasion when you were there unloading
10:43AM 19 with Falzone and Mike Masecchia briefly?

10:43AM 20 A. Yes.

10:43AM 21 Q. Describe that occasion.

10:43AM 22 A. He was -- Mike came there, but then he said that this guy
10:43AM 23 Remus lived across, butting up to Mark's backyard. And I
10:43AM 24 don't know, something happened between the two of them, so he
10:43AM 25 didn't want to be there.

10:43AM 1 Q. So, just to elaborate on that, once Masecchia realized
10:43AM 2 Falzone lived near this guy Remus, he left?

10:43AM 3 A. Yes.

10:43AM 4 Q. Did it seem like they had some dispute between the two of
10:43AM 5 them?

10:43AM 6 A. Yes.

10:43AM 7 Q. Do you know the guy Remus's last name? If you know?

10:43AM 8 A. I think Nowak. Novac, Nowak.

10:43AM 9 Q. Describe generally how you unloaded the marijuana that
10:43AM 10 was in the mulch at Mark Falzone's house.

10:44AM 11 A. We would push the box to the edge of the -- of the truck,
10:44AM 12 push it off, and then cut it open. And then the mulch would
10:44AM 13 fall apart.

10:44AM 14 Q. Are we talking, like, a heavy shrinkwrapped --

10:44AM 15 A. Yes.

10:44AM 16 Q. -- you know, pile of mulch?

10:44AM 17 A. Yes.

10:44AM 18 Q. Would it take some time to work it off the truck?

10:44AM 19 A. Not too much with two of us. But it was in a cardboard
10:44AM 20 box. So it was shrinkwrapped in a cardboard box on a pallet,
10:44AM 21 so it was kind of easier to slide.

10:44AM 22 Q. So you got it off the back?

10:44AM 23 A. Yes.

10:44AM 24 Q. And when it would fall, then what would you do?

10:44AM 25 A. I would cut it open, and then the mulch would fall out

10:44AM 1 everywhere. And then we'd pick through it to retrieve the
10:44AM 2 marijuana.

10:44AM 3 Q. Did you take some deliveries at Falzone's house in 2013?
10:44AM 4 Or what year?

10:44AM 5 A. I think it was, like, '14, '15.

10:44AM 6 Q. Okay. You indicated you took delivery at 82 Sycamore,
10:45AM 7 your warehouse?

10:45AM 8 A. Yes.

10:45AM 9 Q. How many times did you take delivery there?

10:45AM 10 A. I'd say, like, four times.

10:45AM 11 Q. Before I get to 82 Sycamore, on those other occasions
10:45AM 12 other than the one occasion you talked about where it was
10:45AM 13 you, Falzone, and Masecchia briefly, who else helped you and
10:45AM 14 Masecchia unload -- withdrawn.

10:45AM 15 Who else helped you and Falzone unload at Falzone's
10:45AM 16 house?

10:45AM 17 A. I believe it was Matt LoTempio. Either Matt LoTempio or
10:45AM 18 Mike Moynihan. I'm not sure.

10:45AM 19 Q. Okay. All right. Now I'd like to move on to 82
10:45AM 20 Sycamore. I think you just said you took delivery at your
10:45AM 21 warehouse about four times?

10:45AM 22 A. Yes.

10:45AM 23 Q. Using the U-Haul/mulch method?

10:45AM 24 A. Correct.

10:45AM 25 Q. Who were the people who helped you unload at 82 Sycamore?

1 A. I believe it was Matt LoTempio and Mark Falzone.

2 Q. Same deal? You're paying them to help you unload, and
3 giving them first choice on the marijuana?

4 A. Yes.

5 **MR. TRIPI:** Bear with me one moment.

6 Ms. Champoux, can we pull up again 51A-7?

7 **THE COURT:** In evidence?

8 **MR. TRIPI:** It is in evidence, Your Honor, thank you.

9 **BY MR. TRIPI:**

10 Q. Okay. We looked at this on Monday. This is your
11 warehouse at 82 Sycamore?

12 A. Yes.

13 **MR. TRIPI:** Ms. Champoux, could we sort of zoom in on
14 this portion of it, and make it a little larger?

15 **BY MR. TRIPI:**

16 Q. Okay. Can you see that pretty well?

17 A. Yes.

18 Q. Describe for the jury where the U-Haul would pull up for
19 you to take delivery.

20 A. It couldn't fit in it, so I would back it right up to
21 this door right here as close as possible.

22 Q. So basically, what was your purpose for pulling it up
23 backed in as close as possible to that garage door?

24 A. Because I had to push it off so no one could see. And
25 once I got it off, closed the garage door.

1 Q. So you're -- was your purpose to limit the amount of --

2 A. Exposure.

3 Q. -- exposure?

4 A. Yes.

5 **THE COURT:** For the record, you circled the garage
6 door that -- if -- could we zoom out for just one second?

7 **MR. TRIPI:** Go ahead, Ms. Champoux. Could you zoom
8 out?

9 **THE COURT:** It's really the only garage door in the
10 photo.

11 **MR. TRIPI:** Near the left-hand side of the photo.

12 **THE COURT:** Near the left side, yes.

13 **MR. TRIPI:** Thank you, Your Honor.

14 **BY MR. TRIPI:**

15 Q. And was it generally the same method where you had to
16 push the load off the back, cut it open, and then transfer
17 the packaged marijuana to your vehicle?

18 A. Yes.

19 Q. How many vehicles would it take between your vehicle and
20 the people helping you to get it back to where you were
21 bringing it?

22 A. It depends. Sometimes two.

23 Q. And would you bring -- where would you store the
24 marijuana after you got it unloaded, both at Mark Falzone's
25 house and at 82 Sycamore, where would you bring it to store

10:48AM 1 it?

10:48AM 2 A. At my house.

10:48AM 3 Q. 697 Lebrun?

10:48AM 4 A. Yes.

10:48AM 5 Q. As we got into 2014, did you -- did you also store it at

10:48AM 6 Lou Selva's house for a period of time?

10:48AM 7 A. Yes.

10:48AM 8 Q. I'm going to circle back to that, okay? All right.

10:48AM 9 Did you also take delivery directly at your house at 697

10:48AM 10 Lebrun?

10:48AM 11 A. Yes.

10:49AM 12 Q. And can you describe where you, you know, where you would

10:49AM 13 receive it, and how -- how that would work at your house?

10:49AM 14 A. Are you talking about the U-Hauls?

10:49AM 15 Q. Yes.

10:49AM 16 A. U-Hauls, I'd back it into where my garage area was.

10:49AM 17 At one time it was wood pellets, like the burning

10:49AM 18 pellets. And one time it was mulch.

10:49AM 19 Q. Was there an occasion where -- withdrawn.

10:49AM 20 Did -- did the individuals drive the U-Haul directly to

10:49AM 21 your house, or did they drive the U-Haul to a nearby location

10:49AM 22 where you took the U-Haul from there?

10:49AM 23 A. I'd meet them at Denny's on Main Street by Harlem, and

10:49AM 24 then I would take the U-Haul. I didn't want the drivers

10:49AM 25 knowing where I lived.

1 Q. Okay. Explain that in a little more detail for the jury,
2 please.

3 A. So, we set up a time, and I'd go meet them at Denny's.
4 And they would wait at Denny's while I took the truck, went
5 back to my house, pushed it out the back of the truck, and
6 then brought the truck back to them.

7 Q. And what, if anything, would you give the couriers sort
8 of as collateral while you took the shipments?

9 A. I would just leave my car with them.

10 Q. So did you give them your car keys?

11 A. Yes.

12 Q. What kind of car were you driving?

13 A. A Range Rover.

14 Q. How long did the process of unloading generally take?

15 A. Well, it was just getting it off the back of the truck.
16 So that point, it would take me -- I'd be back in 20 minutes,
17 a half hour.

18 Q. Who were the different people who helped you unload at
19 your house at 697 Lebrun?

20 A. Believe Jacob Martinez helped me once, and Mark and Matt.
21 Mark Falzone and Matt LoTempio.

22 Q. Okay. By 2015, had you developed a friendship with
23 Anthony Gerace?

24 A. Yes.

25 Q. When did you first meet him?

10:51AM 1 A. In 2015.

10:51AM 2 Q. How did you meet him?

10:51AM 3 A. I had a payment processing company, and my brother asked
10:51AM 4 me to process payments for him because he had a collection
10:51AM 5 agency.

10:51AM 6 Q. Who had a collection agency?

10:51AM 7 A. Anthony Gerace did.

10:51AM 8 Q. Okay. Did you guys become relatively close during that
10:51AM 9 time?

10:51AM 10 A. Yes.

10:51AM 11 Q. Did that relationship continue up till your arrest?

10:51AM 12 A. Yes.

10:51AM 13 Q. Were there times when Anthony Gerace would supply you
10:51AM 14 marijuana from his supplier?

10:51AM 15 A. Yes.

10:51AM 16 Q. Were there times when you supplied him marijuana?

10:51AM 17 A. Yes.

10:51AM 18 Q. A moment ago, you mentioned that when you used the larger
10:51AM 19 tractor-trailer method, you unloaded at Anthony's unloading
10:52AM 20 dock at Aero Drive; do you remember that?

10:52AM 21 A. Yes.

10:52AM 22 Q. Okay. I'm going to hand up two exhibits, Government
10:52AM 23 Exhibit 489A and 489B.

10:52AM 24 Do you recognize what's depicted in Government Exhibit
10:52AM 25 489A and 489B?

10:52AM 1 A. Yes.

10:52AM 2 Q. What do you recognize that to be?

10:52AM 3 A. That is where Anthony had his cabinet store and the
10:52AM 4 docks, the docks all the way to the right is the one we
10:52AM 5 unloaded it at.

10:52AM 6 Q. Is that his location at -- on Aero Drive that you
10:52AM 7 utilized?

10:52AM 8 A. Yes.

10:52AM 9 Q. Does it fairly and accurately depict sort of a view from
10:52AM 10 the street, and an aerial overhead view of that location --

10:52AM 11 A. Yes.

10:52AM 12 Q. -- on Aero Drive?

10:52AM 13 A. Yes.

10:52AM 14 **MR. TRIPI:** Government offers 489A and 489B into
10:52AM 15 evidence, Your Honor.

10:52AM 16 **MR. MacKAY:** No objection.

10:52AM 17 **THE COURT:** Received without objection.

10:53AM 18 **MR. TRIPI:** Thank you.

10:53AM 19 **(GOV Exhibits 489A and 489B were received in evidence.)**

10:53AM 20 **MR. TRIPI:** Ms. Champoux, can we please publish both
10:53AM 21 of these exhibits side by side, 489A and B?

10:53AM 22 **BY MR. TRIPI:**

10:53AM 23 Q. All right. Looking at 489A on the left there, is that an
10:53AM 24 aerial view of Anthony Gerace's property on Aero Drive?

10:53AM 25 A. Yes.

1 **MR. TRIPI:** Ms. Champoux, can we zoom in on 489A for
2 a moment and make it larger for them?

3 **BY MR. TRIPI:**

4 Q. Do you see the area where the tractor-trailer truck would
5 be pulled in for unloading?

6 A. Yes.

7 Q. Can you use the Telustrator function and circle it for
8 us?

9 A. It was that bay.

10 **MR. TRIPI:** May the record reflect the witness placed
11 a circle to the portion of the parking lot near the grass
12 line, sort of the last trucking bay, going left to right from
13 the back of the building.

14 **BY MR. TRIPI:**

15 Q. Is that about a right description?

16 A. Yes.

17 Q. Okay.

18 **MR. TRIPI:** We can zoom out of that, Ms. Champoux.

19 **BY MR. TRIPI:**

20 Q. And 489B, that just depicts the view from the front of
21 the building?

22 A. Yes.

23 Q. Street view?

24 A. Yes.

25 **MR. TRIPI:** You can take those down, thank you.

10:55AM 1 Q. What'd you tell him?

10:55AM 2 A. Vancouver.

10:55AM 3 Q. Did he tell you -- when you would be receiving marijuana

10:55AM 4 from him, did he tell you where his source of supply was

10:55AM 5 located?

10:55AM 6 A. Yes.

10:55AM 7 Q. What did he tell you?

10:55AM 8 A. New York City.

10:55AM 9 Q. And would you guys do that back and forth to fill gaps in

10:55AM 10 time between shipments?

10:55AM 11 A. Yes.

10:55AM 12 Q. Eventually, between the 2015 time period and your arrest

10:56AM 13 in 2017, did Jarrett Guy start sending along fake oxycodone?

10:56AM 14 A. Yes.

10:56AM 15 Q. Was it OxyContin, or oxycodone?

10:56AM 16 A. OxyContin.

10:56AM 17 Q. Okay. And were those fentanyl pills?

10:56AM 18 A. Yes.

10:56AM 19 Q. Did you also distribute -- did you also distribute some

10:56AM 20 of those pills to Anthony Gerace?

10:56AM 21 A. Yes.

10:56AM 22 Q. Who were some of the other people that you distributed

10:56AM 23 those pills to?

10:56AM 24 A. Jacob Martinez, Anthony Greco.

10:56AM 25 Q. Did Anthony Gerace start using those pills?

1 A. Yes. That's -- that's why he took them. They were all
2 users.

3 Q. All three of those people used?

4 A. Yes.

5 Q. Okay. I'd like to shift gears for a moment here.

6 Over the years that information that you requested was
7 passed back to you from Selva and Masecchia as part of this
8 bribery scheme, did you feel you were getting -- did you feel
9 you were getting a good return on your monthly bribery
10 investment to Defendant Bongiovanni?

11 A. Yes.

12 Q. Did you feel like the information you were getting back
13 was authentic?

14 A. Yes.

15 Q. Did you rely on that information in your dealings with
16 drug traffickers?

17 A. Yes.

18 Q. Did the information you were receiving inform your
19 decisionmaking?

20 A. Yes.

21 Q. Now, earlier in your testimony, you indicated that one of
22 the things you were interested in were the names of potential
23 informants, right?

24 A. Yes.

25 **MR. TRIPI:** Now my mic's cutting out. Sorry, Judge.

10:58AM 1 **THE COURT:** That's alright.

10:58AM 2 **BY MR. TRIPI:**

10:58AM 3 Q. Over the years, were different names provided to you over
10:58AM 4 time as being potential informants?

10:58AM 5 A. Yes.

10:58AM 6 Q. Approximately how many times do you think that happened
10:58AM 7 where names were passed to you from Bongiovanni through
10:58AM 8 Masecchia to you, about informants?

10:58AM 9 A. I would say at least ten, but a lot of them weren't
10:58AM 10 relevant. Actually, probably way more than ten.

10:58AM 11 Q. So let's break that down.

10:58AM 12 More than ten names came to your attention, but -- but
10:58AM 13 many of them were not relevant. Explain what you mean to the
10:58AM 14 jury.

10:58AM 15 A. They had nothing to do with my operation or me, so they
10:58AM 16 didn't mean anything. I didn't know the people.

10:58AM 17 Q. So, do you even remember the names that were not really
10:58AM 18 relevant to you?

10:58AM 19 A. No.

10:58AM 20 Q. Are you familiar with a bar named Gables on Hertel in
10:59AM 21 North Buffalo?

10:59AM 22 A. Yes.

10:59AM 23 Q. Was there information passed to you that an individual
10:59AM 24 named Steven Brucato was supplying cocaine to a person named
10:59AM 25 Joe Mesi?

10:59AM 1 A. Yes.

10:59AM 2 Q. Now did you deal with either of those two people?

10:59AM 3 A. No.

10:59AM 4 Q. Who passed you that information?

10:59AM 5 A. Mike Masecchia.

10:59AM 6 Q. Where did he get the information from?

10:59AM 7 A. Joe Bongiovanni.

10:59AM 8 Q. What did Masecchia tell you?

10:59AM 9 A. Just to stay away from Gables. But I didn't go to

10:59AM 10 Gables, so it wasn't relevant to me.

10:59AM 11 Q. Now, did you know who Joe Mesi was?

10:59AM 12 A. I've heard of him. I don't know him personally.

10:59AM 13 Q. Why do you remember that name?

10:59AM 14 A. Because he was a professional boxer.

10:59AM 15 Q. For a period of time in the sort of early 2000s, was he

10:59AM 16 relatively popular or famous in this area?

10:59AM 17 A. Yes.

10:59AM 18 Q. Is that why you remember his name?

10:59AM 19 A. Yes.

11:00AM 20 Q. What drug was the investigation involving Brucato and

11:00AM 21 Mesi?

11:00AM 22 A. Cocaine.

11:00AM 23 Q. Okay. Do you remember approximately what year you

11:00AM 24 learned that Brucato and Mesi were investigation -- under

11:00AM 25 investigation as related to Gables bar?

11:00AM 1 A. I want to say it was, I don't know, between 2013, 2015.

11:00AM 2 Q. So that window of time?

11:00AM 3 A. Yeah. It wasn't relevant, so I really don't remember.

11:00AM 4 Q. That's your best estimate?

11:00AM 5 A. Yes.

11:00AM 6 **MR. TRIPI:** Your Honor, when would you like our
11:00AM 7 morning break to be?

11:00AM 8 **THE COURT:** I think this is as good a time as any.

11:00AM 9 I have a -- we have to break for lunch at about
11:00AM 10 12:30, so I think this is a good time to break for our morning
11:01AM 11 break.

11:01AM 12 Please remember my instructions about not talking
11:01AM 13 about the case even with each other and not making up your
11:01AM 14 mind.

11:01AM 15 We'll see you back here in about ten or 15 minutes.

11:01AM 16 (Jury excused at 11:01 a.m.)

11:01AM 17 **THE COURT:** Okay. Anything we need to do before we
11:01AM 18 break?

11:01AM 19 **MR. MacKAY:** No, Your Honor.

11:01AM 20 **MR. TRIPI:** No, thank you, Judge.

11:01AM 21 **THE COURT:** Okay, thanks. We'll see you folks in
11:01AM 22 about ten or 15 minutes.

11:01AM 23 (Off the record at 11:01 a.m.)

11:26AM 24 (Back on the record at 11:26 a.m.)

11:26AM 25 (Jury not present.)

11:26AM 1 **THE CLERK:** All rise.

11:26AM 2 **THE COURT:** Please be seated.

11:26AM 3 **THE CLERK:** We are back on the record for the
11:26AM 4 continuation of the jury trial in case number 19-cr-227,
11:26AM 5 United States of America versus Joseph Bongiovanni.

11:26AM 6 All counsel and parties are present.

11:26AM 7 **THE COURT:** Okay. Anything from the defense?

11:26AM 8 **MR. MacKAY:** No, Your Honor.

11:26AM 9 **THE COURT:** Anything from the government?

11:26AM 10 **MR. TRIPI:** No, thanks, Judge.

11:26AM 11 **THE COURT:** How much longer?

11:26AM 12 **MR. TRIPI:** I'm definitely going to be going after
11:26AM 13 lunch.

11:26AM 14 **THE COURT:** Oh.

11:26AM 15 **MR. TRIPI:** I would say probably I might be able to
11:26AM 16 turn over the witness by 2:30.

11:26AM 17 **THE COURT:** Okay. Fine.

11:26AM 18 **MR. TRIPI:** About two hours.

11:26AM 19 **THE COURT:** And if we spill over, we spill over.
11:26AM 20 That's, you know, what we do, we do.

11:26AM 21 Okay. Let's bring them back in, please, Pat.

11:26AM 22 **MR. TRIPI:** I'll try to be quicker than that, but I'm
11:26AM 23 trying to be realistic.

11:27AM 24 (Jury seated at 11:27 a.m.)

11:27AM 25 **THE COURT:** The record will reflect that all our

11:27AM
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1 jurors are present.

2 I remind the witness that he's still under oath.

3 Mr. Tripi, you may continue.

4 **MR. TRIPI:** Thank you.

5 **BY MR. TRIPI:**

6 Q. Okay. Mr. Serio, we mentioned the name R.K. a few times.

7 I want to go into more detail about him, okay?

8 A. Yes.

9 Q. Who was R.K.?

10 A. R.K. was Frank Burkhardt's friend.

11 Q. And how did you know R.K.?

12 A. Through Frank Burkhardt. He would bring him around

13 sometimes.

14 Q. Was R.K. also friends with T.S.?

15 A. Yes.

16 Q. Was Mr. R.K. around you and other members of your

17 organization?

18 A. Yes.

19 Q. Who else was he around?

20 A. I'm not exactly sure. Maybe someone that was at my house

21 that I dealt with when Frank and Robert came there.

22 Q. Has Mr. R.K. been to your residence at 697 Lebrun?

23 A. Yes.

24 Q. About how many times, approximately?

25 A. About five times.

11:28AM 1 Q. Have you been engaged in marijuana transactions when
11:29AM 2 Mr. R.K. was at your house?
11:29AM 3 A. Yes.
11:29AM 4 Q. Have you been engaged in those transactions in his
11:29AM 5 presence?
11:29AM 6 A. Yes.
11:29AM 7 Q. About how many times?
11:29AM 8 A. I'd say probably five times.
11:29AM 9 Q. What amounts were you distributing in Mr. R.K.'s
11:29AM 10 presence?
11:29AM 11 A. Somewhere between 5 to 20 pounds.
11:29AM 12 Q. Who were you transacting with when Mr. R.K. was present
11:29AM 13 at your house?
11:29AM 14 A. Frank Burkhardt.
11:29AM 15 Q. Do you know if some of the marijuana was intended for
11:29AM 16 Mr. R.K.?
11:29AM 17 A. I believe so.
11:29AM 18 Q. Eventually, were you notified that R.K. was a DEA
11:29AM 19 informant?
11:29AM 20 A. Yes.
11:29AM 21 Q. Prior to learning that R.K. was a DEA informant, was --
11:30AM 22 was R.K. someone that you wanted checked out because he had
11:30AM 23 been arrested?
11:30AM 24 A. No, I didn't give his name.
11:30AM 25 Q. Did you know R.K. had been arrested?

11:30AM 1 A. Yes.

11:30AM 2 Q. How did you find out?

11:30AM 3 A. I seen it on the news that he robbed Poster Art.

11:30AM 4 Q. That he what?

11:30AM 5 A. Robbed Poster Art on Elmwood. That he broke the window

11:30AM 6 and burglarized it.

11:30AM 7 Q. When you -- when you were informed Mr. R.K. was an

11:30AM 8 informant, was anyone else present?

11:30AM 9 A. Oh, Mike Masecchia told me.

11:30AM 10 Q. Where did Masecchia tell you?

11:30AM 11 A. At my house, 697 Lebrun.

11:30AM 12 Q. Was it just the two of you?

11:30AM 13 A. Yes.

11:30AM 14 Q. Was it a private conversation?

11:30AM 15 A. Yes.

11:30AM 16 Q. Was it important to you to keep those kind of

11:30AM 17 conversations contained?

11:30AM 18 A. Yes.

11:30AM 19 Q. What did Masecchia tell you about R.K.?

11:31AM 20 A. That he was a DEA informant.

11:31AM 21 Q. Who did Masecchia tell you R.K. was an informant for,

11:31AM 22 specifically, at DEA?

11:31AM 23 A. Joe Bongiovanni.

11:31AM 24 **MR. TRIPI:** Ms. Champoux, can we pull up Government

11:31AM 25 Exhibit 9E-2, please?

11:31AM

1

BY MR. TRIPI:

11:31AM

2

Q. Mr. Serio, can you read the big capital lettered bold

11:31AM

3

words that are above that black line?

11:31AM

4

A. Confidential source agreement.

11:31AM

5

Q. Okay.

11:31AM

6

MR. TRIPI: Ms. Champoux, can we go to the second

11:31AM

7

page of that?

11:31AM

8

BY MR. TRIPI:

11:31AM

9

Q. Do you see a signature line for the confidential source?

11:31AM

10

A. Yes.

11:31AM

11

Q. Does it look like the name R.K. to you?

11:31AM

12

A. Yes.

11:31AM

13

Q. Are his initials R.K.?

11:31AM

14

A. Yes.

11:31AM

15

Q. Do you see a name for a controlling investigator there?

11:32AM

16

A. Yes.

11:32AM

17

Q. Does it look like the name Joe Bongiovanni?

11:32AM

18

A. Yes.

11:32AM

19

Q. Have you ever seen that document before this moment in

11:32AM

20

time?

11:32AM

21

A. No.

11:32AM

22

MR. TRIPI: We can take that down.

11:32AM

23

BY MR. TRIPI:

11:32AM

24

Q. To be clear, before you were specifically informed by

11:32AM

25

Mike Masecchia that R.K. was a DEA informant, would you have

11:32AM 1 sold him marijuana in exchange for money?

11:32AM 2 A. Yes.

11:32AM 3 Q. Before you were specifically informed that R.K. was this
11:32AM 4 defendant's informant, would you have sold him cocaine in
11:32AM 5 exchange for money if you had cocaine available for sale?

11:32AM 6 A. Yes.

11:32AM 7 Q. After you were specifically informed that R.K. was this
11:32AM 8 defendant's informant, did you stay away from him?

11:33AM 9 A. Yes.

11:33AM 10 Q. Did other people in your organization stay away from him?

11:33AM 11 A. Yes.

11:33AM 12 Q. Did you tell others to stay away from R.K.?

11:33AM 13 A. Yes.

11:33AM 14 Q. By being informed that R.K. was this defendant's DEA
11:33AM 15 informant, did that neutralize the risk, in your mind, that
11:33AM 16 R.K. posed to your organization?

11:33AM 17 A. Yes.

11:33AM 18 Q. Was R.K. ever over at your house ever again after you
11:33AM 19 were informed that defendant was R.K.'s DEA handling agent?

11:33AM 20 A. No.

11:33AM 21 Q. I'd like to move on to T.S.

11:33AM 22 Eventually, in proximity to the time where you were
11:33AM 23 advised that Mr. R.K. was an informant, were you advised that
11:34AM 24 T.S. was an informant?

11:34AM 25 A. Yes.

11:34AM 1 Q. By the time that you were informed that T.S. was an
11:34AM 2 informant, had he traveled to New York City with you and
11:34AM 3 Masecchia?
11:34AM 4 A. No.
11:34AM 5 Q. Before you were advised T.S. --
11:34AM 6 A. Oh.
11:34AM 7 Q. -- was an informant, had he previously traveled with you?
11:34AM 8 A. Yes.
11:34AM 9 Q. Okay. Who told you T.S. was an informant?
11:34AM 10 A. Mike Masecchia.
11:34AM 11 Q. What specific information did Masecchia tell you about
11:34AM 12 T.S.?
11:34AM 13 A. That he was a DEA informant.
11:34AM 14 Q. After that, did you stay away from T.S.?
11:34AM 15 A. Yes.
11:34AM 16 Q. Did those in your organization stay away from T.S.?
11:34AM 17 A. Yes.
11:34AM 18 Q. Did you ensure he no longer dealt with you or had access
11:34AM 19 to your products?
11:34AM 20 A. Yes.
11:34AM 21 Q. Did you ensure that he no longer dealt with you or had
11:34AM 22 access to your warehouse?
11:34AM 23 A. Yes.
11:34AM 24 Q. Did you take him on any more trips to New York City for
11:34AM 25 drugs?

11:34AM 1 A. No.

11:34AM 2 Q. Did you try to get any drugs from him after that?

11:35AM 3 A. No.

11:35AM 4 Q. Was that valuable information to you that you believed
11:35AM 5 protected you?

11:35AM 6 A. Yes.

11:35AM 7 Q. Were those disclosures as to both R.K. and T.S. made
11:35AM 8 after you were already dealing with Sant -- withdrawn -- with
11:35AM 9 Jarrett Guy?

11:35AM 10 A. Yes.

11:35AM 11 Q. Were they made after you were informed about the -- the
11:35AM 12 seizure and arrest of Wayne Anderson?

11:35AM 13 A. Yes.

11:35AM 14 Q. Is that the type of information you expected to receive
11:35AM 15 for the money you were paying this defendant?

11:35AM 16 A. Yes.

11:35AM 17 **MR. TRIPI:** Can we pull up 9E-2 again? Let's go to
11:35AM 18 page 2.

11:35AM 19 **BY MR. TRIPI:**

11:35AM 20 Q. Do you see the dates of these signatures, April 29th,
11:36AM 21 2013?

11:36AM 22 A. Yes.

11:36AM 23 Q. Is it -- is that within the timeframe that you were
11:36AM 24 informed Mr. R.K. was an informant?

11:36AM 25 A. Yes, I believe a little after that.

11:36AM 1 Q. Same year?

11:36AM 2 A. Yes.

11:36AM 3 **MR. TRIPI:** We can take that down.

11:36AM 4 **BY MR. TRIPI:**

11:36AM 5 Q. After you learned about R.K. and T.S. being informants,
11:36AM 6 did some time go by before you learned more information about
11:36AM 7 a threat to your organization?

11:36AM 8 A. Yes.

11:36AM 9 Q. After you learned about R.K. and T.S. being informants,
11:36AM 10 did you receive information that Mario Vacanti was under
11:36AM 11 investigation?

11:36AM 12 A. Yes.

11:36AM 13 Q. Tell the jury who Mario Vacanti was in the context of
11:36AM 14 your organization.

11:36AM 15 A. Mario Vacanti was one of the -- one of my major
11:37AM 16 customers.

11:37AM 17 Q. Would he take a lot of the product you were supplying and
11:37AM 18 distribute it?

11:37AM 19 A. Yes.

11:37AM 20 Q. On a monthly basis, how much marijuana was Mario Vacanti
11:37AM 21 distributing for you?

11:37AM 22 A. It depends. I would say on a slow month, 50 pounds at
11:37AM 23 least.

11:37AM 24 Q. And in a high month?

11:37AM 25 A. Maybe 150.

11:37AM 1 Q. So in business terms, he was one of your major sales
11:37AM 2 reps?

11:37AM 3 A. Yes.

11:37AM 4 Q. At the time you received this information about Mario
11:37AM 5 Vacanti, where was he living?

11:37AM 6 A. He was living in my brother's carriage house, at 81
11:37AM 7 Lebrun Circle.

11:37AM 8 Q. Is that basically a short drive down the street from
11:37AM 9 where you were living at 697 Lebrun?

11:37AM 10 A. Yes.

11:37AM 11 Q. Your brother Tom had a house and a carriage house behind
11:38AM 12 it?

11:38AM 13 A. Correct.

11:38AM 14 Q. For those who don't know, what's a carriage house?

11:38AM 15 A. It's where the garage is, and there's an apartment over
11:38AM 16 the garage, or beside the garage, on that case.

11:38AM 17 Q. So Mario Vacanti was living on the same property as your
11:38AM 18 brother Tom?

11:38AM 19 A. Correct.

11:38AM 20 Q. Who told you the information about Mario Vacanti?

11:38AM 21 A. Mike Masecchia.

11:38AM 22 Q. Who did he get the information from?

11:38AM 23 A. Joe Bongiovanni.

11:38AM 24 Q. Was there -- was Lou Selva involved at all in passing
11:38AM 25 that information?

11:38AM 1 A. I believe so.

11:38AM 2 Q. What did Masecchia tell you about Mario Vacanti being
11:38AM 3 under investigation?

11:38AM 4 A. That he was being investigated for money-laundering, and
11:38AM 5 then he gave the name of the person cooperating against
11:38AM 6 Mario, which was Paul Humphries, which was Mario's
11:38AM 7 half-sister's boyfriend. And he said that -- Paul Humphries
11:38AM 8 said that he owed him \$4,000, and I believe that was it. But
11:38AM 9 when I told Mario, he was shocked that I knew that he owed
11:38AM 10 him \$4,000.

11:38AM 11 Q. All right. Let's break that down a little bit.

11:38AM 12 Where does Masecchia tell you that Mario Vacanti's under
11:39AM 13 investigation regarding his dealings with Paul Humphries?

11:39AM 14 A. I believe it's either my house or Mike's house.

11:39AM 15 Q. When you heard that, what did you do?

11:39AM 16 A. I went and seen Mario.

11:39AM 17 Q. Did you do it right away?

11:39AM 18 A. Yes.

11:39AM 19 Q. Was it important to notify him right away?

11:39AM 20 A. Yes.

11:39AM 21 Q. When you went to Mario's house, you're talking about the
11:39AM 22 carriage house behind your brother's residence?

11:39AM 23 A. Correct.

11:39AM 24 Q. Describe your conversation with Mario Vacanti.

11:39AM 25 A. I just said that I heard that he's being -- that he's

11:39AM 1 under investigation for money-laundering, and that someone
11:39AM 2 named Paul Humphries was cooperating against him. And that's
11:39AM 3 when he said that it was his half-sister's ex-boyfriend.
11:39AM 4 Q. Did you give him specifics about what that information
11:39AM 5 was?
11:39AM 6 A. Yes, that -- he said that he got marijuana from Mario,
11:39AM 7 and that he owed him \$4,000.
11:39AM 8 Q. So in that context, Humphries was providing information?
11:39AM 9 A. Yes.
11:39AM 10 Q. Did Vacanti confirm the accuracy of the information you
11:39AM 11 passed to him?
11:39AM 12 A. Yes.
11:40AM 13 Q. Did he thank you for it?
11:40AM 14 A. Yes.
11:40AM 15 Q. Did you give him any advice?
11:40AM 16 A. To stop selling the marijuana.
11:40AM 17 Q. Take a pause?
11:40AM 18 A. Yes.
11:40AM 19 Q. Did you take a pause in distributing to him?
11:40AM 20 A. I did.
11:40AM 21 Q. What year was this, approximately?
11:40AM 22 A. 2015.
11:40AM 23 Q. Is that the kind of information you expected to receive
11:40AM 24 from the defendant for what you were paying?
11:40AM 25 A. Yes.

11:40AM 1 Q. Did you rely on that information?

11:40AM 2 A. Yes.

11:40AM 3 Q. Did you stop for a period distributing to Mario Vacanti

11:40AM 4 to make sure that that would blow over?

11:40AM 5 A. Yes.

11:40AM 6 Q. Did you know whether Vacanti stopped dealing with Paul

11:40AM 7 Humphries?

11:40AM 8 A. Yes, he did.

11:40AM 9 Q. Vacanti never got arrested, did he?

11:41AM 10 A. No.

11:41AM 11 Q. In terms of some general information that was passed to

11:41AM 12 you over time, was information passed to you about the types

11:41AM 13 of vehicles the DEA used on surveillance?

11:41AM 14 A. Yes.

11:41AM 15 Q. Who passed you that information?

11:41AM 16 A. Mike Masecchia.

11:41AM 17 Q. Where did that information come from?

11:41AM 18 A. Joe Bongiovanni.

11:41AM 19 Q. Was Lou Selva involved in that chain of information being

11:41AM 20 passed?

11:41AM 21 A. Yes.

11:41AM 22 Q. What were you told about the different types of

11:41AM 23 surveillance vehicles the DEA used?

11:41AM 24 A. To look out for utility vehicles that are lingering

11:41AM 25 around all the time.

11:41AM 1 Q. Is that something you did as you lived at that big house
11:41AM 2 on 697 Lebrun?
11:41AM 3 A. Yes.
11:41AM 4 Q. Being on the corner with all those windows, did you have
11:41AM 5 a good vantage point of both streets that intersected around
11:42AM 6 you?
11:42AM 7 A. Yes.
11:42AM 8 Q. Were you vigilant?
11:42AM 9 A. Yes.
11:42AM 10 Q. Earlier you talked about passing of lists of names and
11:42AM 11 phone numbers. Were the parameters and people involved in
11:42AM 12 your organization passed along to Defendant Bongiovanni?
11:42AM 13 A. Yes.
11:42AM 14 Q. Why was that important for you to do?
11:42AM 15 A. To make sure that nobody else applying was being
11:42AM 16 investigated.
11:42AM 17 Q. Was it your intent to maximize the defendant's ability to
11:42AM 18 look out for you?
11:42AM 19 A. Yes.
11:42AM 20 Q. Earlier we touched on you storing some marijuana at Lou
11:42AM 21 Selva's house in or about 2014; is that right?
11:42AM 22 A. Yes.
11:42AM 23 Q. By that point in time, had you set up a grow operation to
11:43AM 24 make plants grow to adulthood at Lou's house?
11:43AM 25 A. Yes.

11:43AM 1 Q. Talk about your decision -- withdrawn.

11:43AM 2 Talk about the discussions you had about setting up a

11:43AM 3 full-scale grow operation in Selva's basement?

11:43AM 4 A. Just Mike asked me to build the room.

11:43AM 5 Q. At Selva's house?

11:43AM 6 A. Yes.

11:43AM 7 Q. So did you go to Selva's house?

11:43AM 8 A. Yes, I did.

11:43AM 9 Q. Who was with you?

11:43AM 10 A. Just me, Mike and Lou.

11:43AM 11 Q. And did you guys talk?

11:43AM 12 A. Yes.

11:43AM 13 Q. Did you talk about why a decision was being made to set

11:43AM 14 up a full grow in Selva's house?

11:43AM 15 A. Just that they wanted to.

11:43AM 16 Q. Talk about the work you did that there. Tell the jury.

11:43AM 17 A. I ran all the electricity, and I spaced the lights and

11:43AM 18 hung four lights there, and CO₂ generator and an air filter

11:44AM 19 to clean the air.

11:44AM 20 Q. How long did this work take you?

11:44AM 21 A. Like, two days.

11:44AM 22 Q. How many plants did you set up to grow there?

11:44AM 23 A. It was usually 12 to 15 a light. So probably around 60

11:44AM 24 plants.

11:44AM 25 Q. What was the arrangement in terms of monetary

1 compensation or split between the three of you?

2 A. Well, they were gonna split it, and I would just -- my
3 cut would be getting it at a cheaper price and selling it.

4 Q. So it increased your capacity to move marijuana?

5 A. Yes.

6 Q. What, if anything, did Lou Selva say about setting up a
7 grow at his house as it related to Defendant Bongiovanni?

8 A. That he would be good because if there was any
9 investigation, he would get a heads-up.

10 Q. Was this grow operation at Selva's house set up and
11 continuous for several years?

12 A. Yes.

13 Q. Do you know how many years it went on for?

14 A. That, I don't know.

15 Q. After you set up the grow, did you also start storing
16 some marijuana at Selva's house?

17 A. Occasionally.

18 Q. Describe your discussions with Selva about storing
19 marijuana at his house.

20 A. That I would pay -- well, that it was a good idea to
21 store it there, because if they were being investigated, he
22 would get the heads-up from Joe.

23 And then I paid Lou \$50 on every pound, and Mike 100 if
24 he dropped it off to people for me.

25 Q. During the timeframe where you were setting up a grow in

11:46AM 1 Lou's basement to grow plants to maturity, and during the
11:46AM 2 timeframe you were storing marijuana there, did you ever have
11:46AM 3 a discussion where Lou Selva relayed to you the defendant's
11:46AM 4 views on enforcing marijuana laws?
11:46AM 5 A. That he wasn't -- he didn't believe that --
11:46AM 6 Q. Can you use names, please?
11:46AM 7 A. Oh. Lou told me that Joe Bongiovanni said that marijuana
11:46AM 8 wasn't something that he cared to investigate.
11:46AM 9 Q. Now as you understood it, had Lou been involved in the
11:47AM 10 operation going all the way back to 2008, clipping at the
11:47AM 11 Morgan Hollow road location?
11:47AM 12 A. Yes. I believe even before that, he was involved.
11:47AM 13 Q. He's known Masecchia a long time?
11:47AM 14 A. Yes.
11:47AM 15 Q. Now at some point, did some marijuana, as far as you
11:47AM 16 understood it, come up missing at Lou's house?
11:47AM 17 A. Yes.
11:47AM 18 Q. Do you know specifically how or why?
11:47AM 19 A. No, I don't.
11:47AM 20 Q. Did you ever bring it up to Lou or Mike?
11:47AM 21 A. No, I didn't know for sure, and I didn't want to accuse
11:47AM 22 anybody without evidence.
11:47AM 23 Q. Did you know whether it was your mistake or their
11:47AM 24 mistakes?
11:47AM 25 A. I felt pretty strongly that it was one of their mistakes,

11:47AM 1 but it's possible that it could have been mine, that's why I
11:47AM 2 didn't say anything.

11:47AM 3 Q. Did you ever have any problems with Lou or Mike?

11:47AM 4 A. No.

11:48AM 5 Q. Did you guys always get along?

11:48AM 6 A. Yes.

11:48AM 7 Q. Did business continue as usual between the three of you
11:48AM 8 after that?

11:48AM 9 A. Yes.

11:48AM 10 Q. Did you know Lou to have, like, adult-age kids, as well?

11:48AM 11 A. I believe he's got one daughter.

11:48AM 12 Q. Okay. Regarding Mark Vitale, I'd like to focus you in on
11:48AM 13 that, we talked a little bit about it earlier, okay?

11:48AM 14 A. Yes.

11:48AM 15 Q. In or about December of 2015, I think you mentioned you
11:48AM 16 learned he was arrested?

11:48AM 17 A. Yes.

11:48AM 18 Q. Can you describe how you were supplying Vitale through
11:48AM 19 other people, for the jury?

11:48AM 20 A. I was at first giving it to my sister-in-law, Adrian
11:48AM 21 Fina. And then eventually her boyfriend John Robinson was
11:48AM 22 supplying him.

11:48AM 23 Q. Was it -- whose decision was it to switch the person who
11:49AM 24 would provide Vitale the marijuana?

11:49AM 25 A. It was my decision.

11:49AM 1 Q. Why did you make the decision to switch from Fina to
11:49AM 2 Robinson as the person who would deal with Vitale?

11:49AM 3 A. Because my sister-in-law stole some Adderall that I had,
11:49AM 4 and I didn't want her in my house anymore.

11:49AM 5 Q. Okay. So basically, I think I said this Monday or
11:49AM 6 earlier, you gave that account to John Robinson to put it in
11:49AM 7 business terms?

11:49AM 8 A. Yes.

11:49AM 9 Q. How many years had you been supplying Mark Vitale through
11:49AM 10 either Adrian or John Robinson?

11:49AM 11 A. It was a couple years, two years.

11:49AM 12 Q. How much marijuana would he get from you routinely?

11:49AM 13 A. Not quite sure. I know he'd take, like, maybe 2 to
11:50AM 14 5 pounds. Sometimes I would give her maybe 5 pounds, or
11:50AM 15 Adrian 5 pounds, or John would take 10, 15 pounds. And I
11:50AM 16 don't know exactly the amounts that they were giving to
11:50AM 17 different people.

11:50AM 18 Q. That was pretty regularly though?

11:50AM 19 A. Yes.

11:50AM 20 Q. Who did you initially learn in our around December of
11:50AM 21 2015 that Mark Vitale had been arrested from?

11:50AM 22 A. Through my ex-wife.

11:50AM 23 Q. Your wife Lauren?

11:50AM 24 A. Yes.

11:50AM 25 Q. That's Adrian's sister?

11:50AM	1	A. Yes.
11:50AM	2	Q. What did you do when you learned that Vitale had been
11:50AM	3	arrested?
11:50AM	4	A. I went and seen Mike. Masecchia.
11:50AM	5	Q. What did you want to know?
11:50AM	6	A. I wanted to know if everything was okay.
11:50AM	7	Q. What did you tell Masecchia?
11:50AM	8	A. Told him that Mark Vitale's -- I heard that his house got
11:50AM	9	raided, and to check on and see if everything's okay.
11:50AM	10	Q. Did Masecchia know who Vitale was?
11:51AM	11	A. No.
11:51AM	12	Q. Did you explain it to him?
11:51AM	13	A. Yes.
11:51AM	14	Q. What did you tell him about who Vitale was?
11:51AM	15	A. I said that John Robinson was supplying Vitale through
11:51AM	16	me.
11:51AM	17	Q. Did Mike Masecchia know who John Robinson was?
11:51AM	18	A. Yes.
11:51AM	19	Q. When you explained the significance of Vitale to
11:51AM	20	Masecchia, did he confirm that he would find out?
11:51AM	21	A. Yes.
11:51AM	22	Q. Who was he going to find out from?
11:51AM	23	A. From Joe Bongiovanni.
11:51AM	24	Q. What did Masecchia report back to you regarding that
11:51AM	25	situation?

11:51AM 1 A. That everything was okay.

11:51AM 2 Q. How much time elapsed from when you asked Masecchia to
11:51AM 3 find out about Vitale's arrest to when he reported back to
11:51AM 4 you that everything's okay?

11:51AM 5 A. I believe it was the next day.

11:51AM 6 Q. So it was pretty quick?

11:51AM 7 A. Yes.

11:51AM 8 Q. At that time of the Vitale arrest, did you know Joe
11:52AM 9 Bongiovanni's partner at DEA? Did you know the name of who
11:52AM 10 his partner was?

11:52AM 11 A. No.

11:52AM 12 Q. Earlier, I talked -- we talked a little bit about when
11:52AM 13 you met Anthony Gerace in approximately 2015. And I asked
11:52AM 14 you about supplying each other back and forth, and we went
11:52AM 15 through sort of the tractor-trailers that he helped you
11:52AM 16 unload. But I don't think I asked you this. I would like to
11:52AM 17 circle back.

11:52AM 18 Approximately how many times from 2015 on did you supply
11:53AM 19 Anthony Gerace with marijuana?

11:53AM 20 A. Say, maybe ten times.

11:53AM 21 Q. Okay. And how many times did he supply you with
11:53AM 22 marijuana?

11:53AM 23 A. Maybe around the same.

11:53AM 24 Q. Okay. And what was, like, an average amount that you
11:53AM 25 would supply Anthony?

11:53AM 1 A. Anywhere between 10 to 30 pounds. Nothing too much. The
11:53AM 2 same thing, it was just kind of to fill in gaps.
11:53AM 3 Q. And how much would he supply you?
11:53AM 4 A. About the same. Actually sometimes more because
11:53AM 5 sometimes he wasn't able to get rid of his, so I would get
11:53AM 6 rid of his for him.
11:53AM 7 Q. So if you're providing him 10 to 30 pounds, what's, like,
11:53AM 8 a range that he would provide you?
11:53AM 9 A. Anywhere from 10 to 50.
11:53AM 10 Q. And you said it was to fill in gaps. I think you covered
11:53AM 11 it earlier, but just --
11:53AM 12 A. If I got -- if I was out of marijuana, or if Anthony was
11:53AM 13 out of marijuana, we would help each other out.
11:53AM 14 Q. So you could keep supplying your customers?
11:54AM 15 A. Correct.
11:54AM 16 Q. Did you and Anthony also use cocaine together at times?
11:54AM 17 A. Yes.
11:54AM 18 Q. Did you ever provide him with any cocaine when you were
11:54AM 19 together?
11:54AM 20 A. I can't remember specifically, but I would imagine so.
11:54AM 21 Q. Did he ever provide you with cocaine when you were
11:54AM 22 together?
11:54AM 23 A. I would imagine so.
11:54AM 24 Q. Did you use opiates together at times?
11:54AM 25 A. All the time.

1 Q. Did that -- was that often the fentanyl pills that you
2 talked about earlier?

3 A. Yes.

4 Q. Did you also on occasion sniff heroin with him?

5 A. Yes.

6 Q. And on an occasion when you did cocaine together, did he
7 snort some cocaine, then immediately make a statement about
8 David Oddo?

9 A. Yes.

10 Q. What did Anthony Gerace say after he snorted cocaine and
11 then immediately made a statement about David Oddo?

12 A. He said --

13 **MR. MacKAY:** Objection, hearsay.

14 **MR. TRIPI:** It's not. I can --

15 **THE COURT:** Come on up, let me find out what it is.

16 (Sidebar discussion held on the record.)

17 **THE COURT:** So, I recognize this objection could be
18 hearsay. Let's find out.

19 **MR. TRIPI:** It's -- I think it's admissible on
20 multiple fronts, Your Honor, that are exceptions to hearsay.

21 First, it's a present-sense impression. The
22 contemporaneity ensures the reliability, because there's no
23 time for deliberate fabrication. So it's -- he's immediately
24 sniffing and then making a comment about the quality of David
25 Oddo's cocaine, is what I expect to come out.

1 Additionally, by the time Anthony Gerace discloses,
2 as the conversation elaborates, he discloses his cocaine
3 supplier, they're already heavily involved in a multi-narcotic
4 distribution conspiracy.

5 **THE COURT:** Even though they're co-conspirators?

6 **MR. TRIPI:** Yeah. Even though the primary drug is
7 marijuana, they're involved in other drugs together.

8 **THE COURT:** I'm not so sure I agree with him in the
9 first point, but the second point --

10 **MR. MacKAY:** So, so, what I think he's disclosing is
11 I get my cocaine from Oddo. What -- what I think he's
12 disclosed is Anthony Gerace gets his cocaine from Oddo.

13 We've heard before on other trial that Serio does not
14 like Oddo, doesn't deal with him. So he's not really part of
15 his network.

16 So this is really kind of this fringe thing that's
17 where Anthony Gerace is saying, yeah, I get my cocaine here
18 from Dave Oddo. It doesn't -- it doesn't connect him to Ron
19 Serio, because again, Ron Serio has said I don't like Dave
20 Oddo, I don't deal with him, he's not part of my network.

21 Because I asked him at the prior trial was he part of
22 your network, he says no.

23 **MR. TRIPI:** It doesn't matter. Two narcotic
24 co-conspirators who supply one another cocaine.

25 Earlier I asked Mr. Serio, did you disclose your --

11:56AM 1 where your product was coming from? And he said yes.

11:56AM 2 So these are the types of conversations that foster
11:56AM 3 trust between co-conspirators.

11:56AM 4 **THE COURT:** There's no question that -- that Anthony
11:57AM 5 Gerace and this defendant are involved in a conspiracy
11:57AM 6 together.

11:57AM 7 **MR. MacKAY:** Correct.

11:57AM 8 **THE COURT:** There's no doubt that Anthony Gerace is
11:57AM 9 supplying the cocaine to this defendant to use.

11:57AM 10 **MR. MacKAY:** For use, yes.

11:57AM 11 **THE COURT:** Yeah. So Anthony Gerace saying here's
11:57AM 12 where I got this cocaine from, and it's good stuff, how is
11:57AM 13 that not a statement of a co-conspirator?

11:57AM 14 They don't have to -- Serio and Oddo don't have to
11:57AM 15 know each other, or like each other, or have any connection
11:57AM 16 with each other.

11:57AM 17 **MR. MacKAY:** Well, I mean, I think it also raises the
11:57AM 18 403 confusion ground, because part of the government's theory
11:57AM 19 is somehow David Oddo's name is on this Ron Serio file, he's
11:57AM 20 somehow wrapped up in all of this.

11:57AM 21 But that connection is broken, and he doesn't come in
11:57AM 22 as part -- he's not someone who's working with Ron Serio.

11:57AM 23 **THE COURT:** That's an argument you can make. I'm
11:57AM 24 going to overrule the objection.

11:57AM 25 **MR. TRIPI:** I'm sorry.

11:57AM 1 (End of sidebar discussion.)

11:57AM 2 **THE COURT:** The objection is overruled.

11:58AM 3 **BY MR. TRIPI:**

11:58AM 4 Q. After -- after Anthony snorted that cocaine and made a
11:58AM 5 statement about David Oddo, my question was: What did
11:58AM 6 Anthony say immediately at that point?

11:58AM 7 A. That David Oddo gets the best cocaine. Sells the best
11:58AM 8 cocaine.

11:58AM 9 Q. Did that indicate to you that Oddo was someone who
11:58AM 10 supplied Anthony with cocaine?

11:58AM 11 A. Yes.

11:58AM 12 Q. When you and Anthony would talk, did he ever offer to
11:58AM 13 hook you up with any type of suppliers that you needed beyond
11:58AM 14 marijuana, if the need arose?

11:58AM 15 A. Excuse me?

11:58AM 16 Q. Did Anthony ever offer to hook you up with other sources
11:58AM 17 of supply for other products if -- if you were interested?

11:58AM 18 A. No.

11:58AM 19 Q. But if you wanted cocaine from Anthony, you could get it
11:59AM 20 from him?

11:59AM 21 A. Yes.

11:59AM 22 Q. And you knew who his supplier was?

11:59AM 23 A. Yes.

11:59AM 24 Q. Now, through Anthony, did you meet his brother Peter
11:59AM 25 Gerace?

11:59AM 1 A. Not through Anthony. I met his brother once when I was
11:59AM 2 at a business meeting and he was at the same restaurant, and
11:59AM 3 a person I was with knew him.

11:59AM 4 Q. Who were you with at this business meeting?

11:59AM 5 A. My brother, and Larry Schiavi.

11:59AM 6 Q. Who's that name? Larry, what?

11:59AM 7 A. Schiavi.

11:59AM 8 Q. Did your brother know Peter Gerace?

11:59AM 9 A. No.

11:59AM 10 Q. Larry Schiavi?

11:59AM 11 A. Yeah, I don't know how to spell it.

11:59AM 12 Q. Okay. That was going to be my question.

11:59AM 13 At some point after you met Peter Gerace, did you and
11:59AM 14 Anthony have a night where you went to Pharaoh's?

11:59AM 15 A. One time.

11:59AM 16 Q. Did you know Peter to be the owner?

11:59AM 17 A. Yes.

11:59AM 18 Q. Were you and Anthony using drugs that night?

11:59AM 19 A. Yes.

11:59AM 20 Q. What type of drugs were you and Anthony using at
11:59AM 21 Pharaoh's that night?

11:59AM 22 A. Heroin.

11:59AM 23 Q. Did you also use cocaine that night?

12:00PM 24 A. I believe so.

12:00PM 25 Q. Is that what you would do sometimes, use heroin and then

12:00PM 1 use cocaine to sort of level out?

12:00PM 2 A. Yeah, yes.

12:00PM 3 Q. Where did you and Anthony use the drugs that you were

12:00PM 4 using in Pharaoh's that night?

12:00PM 5 A. In the bathroom.

12:00PM 6 Q. Was Peter there that night?

12:00PM 7 A. No.

12:00PM 8 Q. When Anthony Gerace traveled with you to New York City to

12:00PM 9 procure marijuana, was the trip you took with him, was Mark

12:00PM 10 Falzone there?

12:00PM 11 A. Yes.

12:00PM 12 Q. Did Anthony Gerace eventually -- did you provide him

12:00PM 13 direct access to your residence?

12:00PM 14 A. Yes.

12:00PM 15 Q. So, did you -- did you have a gate at the driveway?

12:00PM 16 A. Yes.

12:00PM 17 Q. How would you get past the gate?

12:00PM 18 A. There was a pass code where you punched it in.

12:00PM 19 Q. Did you give Anthony that code?

12:01PM 20 A. Yes.

12:01PM 21 Q. And then did he have a key to your house?

12:01PM 22 A. He had a -- in the back door I had electronic locks, so

12:01PM 23 he had the code.

12:01PM 24 Q. Okay. Why did you give Anthony direct access to your

12:01PM 25 residence at 697 Lebrun?

12:01PM 1 A. Because sometimes when I wasn't around, if he wanted
12:01PM 2 pills -- because he was a heavy user and he was going through
12:01PM 3 withdrawal -- I'd say go and just -- to my house and go in
12:01PM 4 there and get it.

12:01PM 5 Q. Would the same apply for marijuana if he wanted
12:01PM 6 marijuana?

12:01PM 7 A. Yes.

12:01PM 8 Q. So you had a high level of trust with Anthony?

12:01PM 9 A. Yes.

12:01PM 10 Q. Did Anthony tell you he was also friends with Joe
12:01PM 11 Bongiovanni?

12:01PM 12 A. I don't remember him saying that, but I wound up knowing
12:01PM 13 that he was.

12:01PM 14 Q. Do you remember how you learned it?

12:01PM 15 A. Through Mike Masecchia.

12:01PM 16 Q. During times when you were around Anthony Gerace, did he
12:02PM 17 ever brag about his family?

12:02PM 18 A. Yes.

12:02PM 19 Q. In what regard?

12:02PM 20 A. Just that they were connected.

12:02PM 21 Q. And what did you understand that to mean?

12:02PM 22 A. Meaning in the Mafia.

12:02PM 23 Q. Did Anthony tell you who his grandfather was?

12:02PM 24 A. Yes.

12:02PM 25 Q. Who was that?

12:02PM 1 A. Joe Todaro.

12:02PM 2 Q. Senior?

12:02PM 3 A. Yes.

12:02PM 4 Q. By reputation, what was his reputation?

12:02PM 5 **MR. MacKAY:** Objection, cumulative at this point.

12:02PM 6 **MR. TRIPI:** As to Todaro Sr. Is my specific question.

12:02PM 7 **THE COURT:** Overruled.

12:02PM 8 **THE WITNESS:** That he was the head of the Mafia.

12:02PM 9 **BY MR. TRIPI:**

12:02PM 10 Q. Did you interpret the manner in which Anthony talked
12:02PM 11 about his family as -- as bragging?

12:02PM 12 A. Yes.

12:02PM 13 Q. Now, I'd like to direct you to the day of your arrest on
12:02PM 14 April 18th, 2017. Okay?

12:02PM 15 A. Yes.

12:02PM 16 Q. Were you arrested at Kelly Brace's house during a drug
12:03PM 17 deal?

12:03PM 18 A. Yes.

12:03PM 19 Q. Tell the jury what you did earlier that day, and how you
12:03PM 20 ended up getting arrested, and then I'll follow up.

12:03PM 21 A. Earlier that day, Kelly called me and said that he needed
12:03PM 22 20 pounds. So, I went to his house -- well, I talked to him
12:03PM 23 at his house, that's when he told me.

12:03PM 24 Then I believe I went to Grimsby, then Lebrun, because I
12:03PM 25 had the marijuana in two different spots, and then I went

12:03PM 1 back to his house.

12:03PM 2 Q. Okay. Let me ask you a question. I don't think you've

12:03PM 3 mentioned Grimsby yet. Did you own a house at 91 Grimsby?

12:03PM 4 A. I rented a house at 91 Grimsby.

12:03PM 5 Q. You rented it there? Were you storing marijuana at both

12:03PM 6 those locations?

12:03PM 7 A. Yes.

12:03PM 8 Q. If you mentioned it, I forgot, so I apologize.

12:03PM 9 How much marijuana did Kelly Brace want?

12:03PM 10 A. 20 pounds.

12:03PM 11 Q. So you had to go to the two locations to get it?

12:03PM 12 A. Correct.

12:03PM 13 Q. And then what happened?

12:03PM 14 A. Then I got arrested.

12:04PM 15 Q. After you got the marijuana, did you go back to Kelly's

12:04PM 16 house?

12:04PM 17 A. Yes. Yes, I went back to Kelly's house, and that's where

12:04PM 18 I got arrested.

12:04PM 19 Q. And did he live at 370 Huntington?

12:04PM 20 A. I'm not sure the address, but he lived on Huntington.

12:04PM 21 Q. Was it in the City of Buffalo?

12:04PM 22 A. Yes.

12:04PM 23 Q. Okay. Describe what happened in more specifics when you

12:04PM 24 got arrested.

12:04PM 25 A. They came up the driveway. I had to get on the ground.

12:04PM 1 And then they separated us, they brought me into the kitchen
12:04PM 2 and then took Kelly into another room.

12:04PM 3 Q. Did they approach -- did law enforcement approach you
12:04PM 4 after you had brought the drugs out of your vehicle?

12:04PM 5 A. Yes. The garbage bag was in the garage in front of me
12:04PM 6 and Kelly.

12:04PM 7 Q. Okay. When you were brought into the kitchen, did you
12:04PM 8 know what law enforcement agency it was at that point?

12:04PM 9 A. No.

12:04PM 10 Q. And I think Monday you indicated you were a little upset?

12:04PM 11 A. Yes.

12:05PM 12 Q. Did you ask the law enforcement law officer for somebody?

12:05PM 13 A. Joe Bongiovanni.

12:05PM 14 Q. What exactly did you say to the officer who you were
12:05PM 15 talking with?

12:05PM 16 A. I believe I said, Do you know Joe Bongiovanni?

12:05PM 17 Q. And what was that officer's response in that
12:05PM 18 conversation?

12:05PM 19 A. Yes. Why, do you work for him?

12:05PM 20 Or do you -- do you work for him, meaning am I an
12:05PM 21 informant for him.

12:05PM 22 Q. At that point, what did you do?

12:05PM 23 A. I asked for my lawyer, and I didn't say anything else.

12:05PM 24 Q. Why were you asking? In your mind, why were you asking
12:05PM 25 for Joe Bongiovanni?

12:05PM 1 A. Well, I was pissed. And I just wanted to talk to him.

12:05PM 2 Q. Did you think he could help you?

12:05PM 3 A. Yes.

12:05PM 4 Q. Okay. I'm going to show you some photographs. Let me
12:05PM 5 just get these together.

12:05PM 6 This first batch is going to be 13 photos, I'll list them
12:05PM 7 for the record and then hand them up.

12:06PM 8 A. Okay.

12:06PM 9 Q. 41. Government Exhibit 41A-1, A-2, A-3 -- I'm sorry, I'm
12:06PM 10 only going to show you four, and 41A-13.

12:06PM 11 Okay? So again for the record, that's 41A-1, 2, 3, and
12:06PM 12 41A-13.

12:06PM 13 Do you recognize Government Exhibits 41A-1, 2, 3 and 13?

12:06PM 14 A. Yes.

12:06PM 15 Q. What do you recognize those to be?

12:06PM 16 A. The garage at Kelly's house, the bag of marijuana, and
12:06PM 17 the marijuana in the bag, and then my Range Rover.

12:06PM 18 Q. Okay. Do those all fairly and accurately depict your
12:07PM 19 Range Rover as is depicted that day, as well as the bag of
12:07PM 20 marijuana that was in Kelly Brace's garage that you brought
12:07PM 21 there?

12:07PM 22 A. Yes.

12:07PM 23 **MR. TRIPI:** The government offers 41A-1, 2, 3 and 13,
12:07PM 24 Your Honor.

12:07PM 25 **MR. MacKAY:** No objection.

12:07PM 1 **THE COURT:** They are all admitted without objection.

12:07PM 2 **MR. TRIPI:** Thank you.

12:07PM 3 **(GOV Exhibits 41A-1, 2, 3 and 13 were received in evidence.)**

12:07PM 4 **MR. TRIPI:** Ms. Champoux, can we publish these for

12:07PM 5 the jury starting with 41A-1, and can we just split it with

12:07PM 6 41A-2, move it along a little bit?

12:07PM 7 **BY MR. TRIPI:**

12:07PM 8 Q. Okay. On the left we have Government Exhibit 41A-2 on

12:07PM 9 your screen, and on the right we have 41A, sorry, 41A-1 on

12:07PM 10 the left, 41A-2 on the right.

12:07PM 11 Starting with the photo on the left, Mr. Serio, can you

12:07PM 12 tell the jury what they're looking at there?

12:07PM 13 A. At my Range Rover.

12:07PM 14 Q. Is that parked next to someone else's vehicle?

12:07PM 15 A. Kelly Brace's vehicle.

12:07PM 16 Q. Okay. So, you pulled into his backyard?

12:08PM 17 A. Correct.

12:08PM 18 Q. And 41A-2, what is that?

12:08PM 19 A. That is the bag of marijuana.

12:08PM 20 Q. Okay. And you said how much was in there?

12:08PM 21 A. 20 pounds. Either 19 or 20.

12:08PM 22 **MR. TRIPI:** Okay. Ms. Champoux, can we take those

12:08PM 23 down and publish 41A-3 and 41A-13, please?

12:08PM 24 **BY MR. TRIPI:**

12:08PM 25 Q. And tell the jury what they're looking at there.

12:08PM 1 A. The marijuana that was in the garbage bag in the garage.

12:08PM 2 Q. And is that how the marijuana was packaged, you know,
12:08PM 3 after it would be delivered from Jarrett Guy?

12:08PM 4 A. Yes.

12:08PM 5 Q. Are those each 1-pound bags?

12:08PM 6 A. Yes.

12:08PM 7 **MR. TRIPI:** We can take that down, Ms. Champoux,
12:08PM 8 thank you.

12:08PM 9 **BY MR. TRIPI:**

12:08PM 10 Q. And as you understand it, after you were taken into
12:09PM 11 custody that day, did law enforcement, the Erie County
12:09PM 12 Sheriffs, ultimately obtain search warrants for your house at
12:09PM 13 697 Lebrun, as well as your property at 91 Grimsby?

12:09PM 14 A. Yes.

12:09PM 15 Q. I'm going to hand you up some photos. These are going to
12:09PM 16 be Government Exhibits 41A-1 through 42A-32. With the
12:10PM 17 exception of 42A-10, I'm going to take that one out. So,
12:10PM 18 poor quality. So 42A-1 through 9, and then 11 through 32 is
12:10PM 19 what I'm handing up.

12:10PM 20 Take a moment look through those, when you're done,
12:10PM 21 please look up.

12:11PM 22 Mr. Serio, do you recognize 42A-1 through 9 and 42A-11
12:11PM 23 through 32?

12:11PM 24 A. Yes.

12:11PM 25 Q. Generally, do those all depict your residence at 697

1 Lebrun and the various items that were observed and seized by
2 law enforcement that day?

3 A. Yes.

4 Q. Do they all fairly and accurately depict things you had
5 and locations in your house that day?

6 A. Yes.

7 **MR. TRIPI:** The government offers Exhibit 42A-1
8 through 9, and 42A-11 through 32, Your Honor.

9 **MR. MacKAY:** No objection.

10 **THE COURT:** Received without objection. They're
11 admitted without objection.

12 **MR. TRIPI:** Thank you.

13 **(GOV Exhs 42A-1 to 9, 42A-11 to 32 were received in evidence.)**

14 **MR. TRIPI:** Ms. Champoux, let's start, I guess, I
15 want to pull up 42A-33, which is already in evidence.

16 **BY MR. TRIPI:**

17 Q. So this is the scene, front view, front of your house
18 from Lebrun?

19 A. Yes.

20 **MR. TRIPI:** Okay. Let's go to 42A-1, Ms. Champoux.

21 **BY MR. TRIPI:**

22 Q. I guess we're starting in a -- some type of drawer, but
23 is that some ammo you had in your house?

24 A. Yes.

25 **MR. TRIPI:** Let's go to 42A-2.

12:13PM 1 A. That's my laundry room.

12:13PM 2 **MR. TRIPI:** Okay. Let's go to 42A-6.

12:13PM 3 **BY MR. TRIPI:**

12:13PM 4 Q. Is that a view of some of the marijuana in the bag that
12:14PM 5 was in the prior photo?

12:14PM 6 A. Correct.

12:14PM 7 **MR. TRIPI:** Let's go to 42A-7.

12:14PM 8 **BY MR. TRIPI:**

12:14PM 9 Q. Is that another view of that foyer room where you had
12:14PM 10 some marijuana?

12:14PM 11 A. Yes.

12:14PM 12 **MR. TRIPI:** Let's go to 42A-8.

12:14PM 13 **BY MR. TRIPI:**

12:14PM 14 Q. And what are we looking at here?

12:14PM 15 A. Marijuana.

12:14PM 16 Q. Is that looking into some of the bags that are in that
12:14PM 17 front foyer?

12:14PM 18 A. Yes.

12:14PM 19 Q. After you would take the marijuana in the 1-pound bags,
12:14PM 20 would you generally transfer it into black bag, garage bags
12:14PM 21 or boxes?

12:14PM 22 A. Yes.

12:14PM 23 Q. Okay.

12:14PM 24 **MR. TRIPI:** Let's go to 42A-9.

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A. Yes.

A. Yes, sometimes I would take the marijuana, if it weighed over a pound, and I would take the extra out and then reseal it, and then sometimes I would have extra bags.

MR. TRIPI: Let's go to 42A-11.

A. Those are packages of 2 pounds of marijuana, low-grade marijuana.

Q. Okay.

12:15PM 1 **MR. TRIPI:** Let's go to 42A-12.

12:15PM 2 **BY MR. TRIPI:**

12:16PM 3 Q. More magazines for your gun?

12:16PM 4 A. Yes.

12:16PM 5 **MR. TRIPI:** Let's go to 42A-13.

12:16PM 6 **BY MR. TRIPI:**

12:16PM 7 Q. Is that a scale?

12:16PM 8 A. Yes.

12:16PM 9 Q. What did you use that for?

12:16PM 10 A. To weigh the marijuana.

12:16PM 11 **MR. TRIPI:** Let's go to 42A-14.

12:16PM 12 **BY MR. TRIPI:**

12:16PM 13 Q. What's that?

12:16PM 14 A. Money counter.

12:16PM 15 Q. Why did you need that?

12:16PM 16 A. To count the money.

12:16PM 17 **MR. TRIPI:** Let's go to 42A-15.

12:16PM 18 **BY MR. TRIPI:**

12:16PM 19 Q. Tell the jury, generally, what's depicted in that photo?

12:16PM 20 A. Various pills.

12:16PM 21 Q. What various types of pills are there?

12:16PM 22 A. Methadone, oxycodone, and OxyContin.

12:16PM 23 **MR. TRIPI:** Okay. Let's go to 42A-16. And 42A-17.

12:16PM 24 **BY MR. TRIPI:**

12:16PM 25 Q. Does that generally depict some more pills that were in

12:16PM 1 your house?

12:16PM 2 A. Yes.

12:16PM 3 **MR. TRIPI:** Let's go to 42A-18.

12:17PM 4 **BY MR. TRIPI:**

12:17PM 5 Q. Does that depict more ammunition?

12:17PM 6 A. Yes.

12:17PM 7 **MR. TRIPI:** Let's go to 42A-19.

12:17PM 8 **BY MR. TRIPI:**

12:17PM 9 Q. Is that a close-up of some ammunition in a magazine?

12:17PM 10 A. Yes.

12:17PM 11 **MR. TRIPI:** Let's go to 42A-20.

12:17PM 12 **BY MR. TRIPI:**

12:17PM 13 Q. Is that some more of the marijuana packaging as you've
12:17PM 14 previously described?

12:17PM 15 A. Yes.

12:17PM 16 Q. Cut open bags?

12:17PM 17 A. Yes.

12:17PM 18 **MR. TRIPI:** Let's go to 42A-21.

12:17PM 19 **BY MR. TRIPI:**

12:17PM 20 Q. What's that?

12:17PM 21 A. It's a cocaine residue and marijuana residue.

12:17PM 22 Q. Is that a plate?

12:17PM 23 A. Yes.

12:17PM 24 Q. Is that a plate that you had in, like, a bar area?

12:17PM 25 A. Yes.

1 Q. So that was something that you would put lines of cocaine
2 on?

3 A. Correct.

4 Q. Were there times when you had people over and people used
5 cocaine up there?

6 A. Yes.

7 **MR. TRIPI:** Let's go to 42A-22.

8 **BY MR. TRIPI:**

9 Q. And what's depicted there?

10 A. Empty bags of marijuana.

11 **MR. TRIPI:** Let's go to 42A-23.

12 **BY MR. TRIPI:**

13 Q. You were a big gambler, right?

14 A. Yes.

15 **MR. TRIPI:** Let's go to 42A-24.

16 **BY MR. TRIPI:**

17 Q. And again, is that more empty packaging for marijuana?

18 A. Yes.

19 Q. Is this in your basement?

20 A. Yes.

21 **MR. TRIPI:** Let's go to 42A-25.

22 **BY MR. TRIPI:**

23 Q. What's depicted there?

24 A. An air filter.

25 Q. Okay. Now, I think Monday you talked about having a

12:18PM 1 marijuana grow at 697 Lebrun?

12:18PM 2 A. Yes.

12:18PM 3 Q. Does 42A-25 depict the area where you had the plants
12:18PM 4 growing?

12:18PM 5 A. Yes.

12:18PM 6 Q. It looks like there's some, like, racks at the ceiling.

12:18PM 7 Were those part of the grow, or is that where you hung the
12:18PM 8 lights?

12:18PM 9 A. That's the structure of the house, because on top of it
12:18PM 10 was a tile floor. So back then, they used to have beams like
12:19PM 11 that to pour the concrete and the tile. But that's where I
12:19PM 12 hung the lights, off the beams.

12:19PM 13 Q. How many plants did you have in your basement there?

12:19PM 14 A. I want to say it was, like, under 100.

12:19PM 15 Q. Under 100?

12:19PM 16 A. Yep.

12:19PM 17 Q. Was it 100 because you knew the mandatory minimum and you
12:19PM 18 were living there?

12:19PM 19 A. No, at that point it was because I couldn't fit more in
12:19PM 20 there, so --

12:19PM 21 Q. Couldn't fit any more?

12:19PM 22 A. No.

12:19PM 23 **MR. TRIPI:** Let's go to 42A-26.

12:19PM 24 **BY MR. TRIPI:**

12:19PM 25 Q. What's -- what's that?

12:19PM 1 A. It's a timer for the lights.

12:19PM 2 Q. Okay. Did you set something like that up in Lou Selva's

12:19PM 3 basement, too?

12:19PM 4 A. Yeah, every place I set something up, I did that.

12:19PM 5 Q. What was the purpose of having them on a timer?

12:19PM 6 A. Because they have to be turned on and off at the same

12:19PM 7 time in sync for -- for it to work, for it to go into the

12:19PM 8 budding cycle.

12:19PM 9 Q. When you were doing -- setting up these grows, were you

12:19PM 10 cognizant of triggering any red flags with the utility

12:20PM 11 companies?

12:20PM 12 A. Yes.

12:20PM 13 Q. How did you learn about that?

12:20PM 14 A. I think one time I -- I was doing it in the early 2000s,

12:20PM 15 and I had too many lights, and then National Grid wanted to

12:20PM 16 put in a demand meter because there was so much electricity.

12:20PM 17 Which a demand meter, it measures the amount of usage every

12:20PM 18 15 minutes so it could track at what times. And then if

12:20PM 19 you're doing 12 hours on, 12 hours off every day, and then

12:20PM 20 switch to 18/6, they can see and trigger red flags.

12:20PM 21 Q. Would the demand meter, would the meter reader come to

12:20PM 22 the house more often?

12:20PM 23 A. No, at the same time. But it's just they can see the --

12:20PM 24 the usage of energy in specific times.

12:20PM 25 Q. Okay. So you wanted to avoid that?

1 A. Yes. Because if you have zero electricity on at -- for
2 12 hours, and then electricity going for 12 hours on, then
3 that's usually a sign of a marijuana grow.

4 Q. So how did you avoid that by setting up this timer?

5 A. Well, I would just do enough lights to keep it under the
6 demand meter. That's why some places I'd only do six lights
7 or four lights, because -- I forgot what the wattage is, if
8 you go over a certain wattage, then they put the demand meter
9 in. Or if it's a residence, then they investigate it.

10 Q. So you knew the wattage that you needed to stay below?

11 A. Correct.

12 Q. What other tactics did you use to make sure you didn't
13 use a lot of energy, to stay below the wattage?

14 A. I would turn lights on -- the lights on at night because
15 then it would keep the air conditioning low and the fans low,
16 because the temperatures drop at night versus the daytime.
17 So you use less cooling doing it that way.

18 Q. So, so your house was using less energy, legitimate --
19 legitimate energy for other house functions?

20 A. Correct.

21 Q. Okay.

22 **MR. TRIPI:** Let's go to 42A-27.

23 **BY MR. TRIPI:**

24 Q. Is this what you built to walk into for the grow in the
25 basement?

1 A. I was going to refinish the basement, and that room was
2 already there. I kind of just put drywall in front of it to
3 kind of block it off.

4 Q. Okay. So behind that drywall is where the marijuana
5 plants were growing?

6 A. Correct.

7 **MR. TRIPI:** Let's go to 42A-28.

8 **BY MR. TRIPI:**

9 Q. Here, do we see basically more packaging material?

10 A. Yes.

11 **MR. TRIPI:** Let's go to 42A-29.

12 **BY MR. TRIPI:**

13 Q. Did you have a shotgun, somewhere?

14 A. At some point, I did.

15 Q. Okay. That's a round of shotgun ammunition?

16 A. Correct.

17 **MR. TRIPI:** Let's go to 42A-30.

18 **BY MR. TRIPI:**

19 Q. What are we looking at here?

20 A. Those were a key holder for some of the properties that I
21 had.

22 Q. Were those rental properties, or what were they?

23 A. Rental properties.

24 Q. Okay. And we see the key holders for 82 Sycamore and 608
25 Michigan; is that right?

12:23PM 1 A. Correct.

12:23PM 2 Q. Did you ever have any other marijuana grows at any of

12:23PM 3 those locations?

12:23PM 4 A. No.

12:23PM 5 Q. Okay. So those are strictly rentals?

12:23PM 6 A. Correct.

12:23PM 7 Q. Including 132 Rhode Island?

12:23PM 8 A. Well, that actually was -- I was holding a mortgage for

12:23PM 9 somebody, and I had to foreclose on it.

12:23PM 10 Q. Who were you holding the mortgage for?

12:23PM 11 A. For Jay Camacho, I believe.

12:23PM 12 Q. Who?

12:23PM 13 A. Jay Camacho.

12:23PM 14 Q. And who's that?

12:23PM 15 A. A friend of mine.

12:23PM 16 Q. Is that someone who worked for you at your debt

12:23PM 17 collection agency?

12:23PM 18 A. Correct.

12:23PM 19 Q. Okay. So the only drug premises that you held out of

12:23PM 20 these properties, would it be accurate to say, was 82

12:23PM 21 Sycamore and 608 Michigan?

12:23PM 22 A. Correct.

12:23PM 23 **MR. TRIPI:** Can we go to 42A-31?

12:24PM 24 **BY MR. TRIPI:**

12:24PM 25 Q. And, again, we see more empty packaging for marijuana

12:24PM 1 there?

12:24PM 2 A. Yes.

12:24PM 3 **MR. TRIPI:** How about 42A-32.

12:24PM 4 **BY MR. TRIPI:**

12:24PM 5 Q. The last photo in this set. That's another view of the
12:24PM 6 same key thing? Sorry about that.

12:24PM 7 A. Yes.

12:24PM 8 **MR. TRIPI:** We'll take that down, Ms. Champoux.

12:24PM 9 **BY MR. TRIPI:**

12:24PM 10 Q. Now you've also had an opportunity to review all of the
12:24PM 11 evidence that was seized from your house as depicted in those
12:24PM 12 photos, correct?

12:24PM 13 A. Correct.

12:24PM 14 Q. All right. I've handed up Government Exhibit 53,
12:24PM 15 Mr. Serio. Have you seen that before?

12:24PM 16 A. Yes.

12:24PM 17 Q. Is that a portion of the marijuana and packaging material
12:24PM 18 that was seized from your residence at 697 Lebrun, as we've
12:25PM 19 just seen in some of the photos there?

12:25PM 20 A. Yes.

12:25PM 21 Q. Other than the fact that it's now in a government bag and
12:25PM 22 has some labelling on it, is it in the same or substantially
12:25PM 23 same condition today as when it was recovered from your
12:25PM 24 house?

12:25PM 25 A. Yes.

1 Q. I'm going hand you up some other exhibits, we're going to
2 try to do the speed round to get this in before lunch, okay?

3 A. Okay.

4 **MR. TRIPI:** For the record, Your Honor, I'm going to
5 hand up Exhibit 57, 58, 56, sorry, I'm out of order here. 55,
6 54, and 59.

7 **THE COURT:** So that's 54 through 59?

8 **MR. TRIPI:** Yeah. I said them out.

9 **THE COURT:** That's okay.

10 **MR. TRIPI:** I just tried to make it harder for
11 everyone, Judge.

12 **THE COURT:** Well, yeah, I'm just showing you I was
13 paying attention.

14 **MR. TRIPI:** So 53 to 59. I'm showing now 45 to 59.

15 **BY MR. TRIPI:**

16 Q. Look through those, Mr. Serio.

17 Do you recognize Exhibits 54 through 59?

18 A. Yes.

19 Q. Did you see those items in some of the photos we just
20 looked at?

21 A. Yes.

22 Q. What do you recognize Exhibits 54 through 59 to contain?

23 A. To contain methadone, various opiates, and Adderall.

24 Q. And were those depicted in the photos we saw?

25 A. Yes.

1 Q. Other than the fact that they're now in those bags and
2 they've, you know, been packaged up by law enforcement, do
3 you recognize them to be in the same or substantially same
4 condition today as when they were in your house?

5 A. Yes.

6 Q. Do some of them have your name on the packaging?

7 A. Yeah, the prescription bottle I believe.

8 Q. Okay. Some of those drugs were prescribed?

9 A. I think the -- no, I think it was before there was one.

10 Q. So those were old prescription bottles?

11 A. Yes.

12 **MR. TRIPI:** Judge, with that foundation, we'll offer
13 Exhibits 54 through 59, as well.

14 **MR. MacKAY:** No objection.

15 **THE COURT:** Received without objection.

16 **(GOV Exhibits 53 through 59 were received in evidence.)**

17 **MR. TRIPI:** Just going to publish what I've put into
18 evidence, Judge.

19 Oh, I'm offering 53 as well.

20 **MR. MacKAY:** No objection, as well.

21 **THE COURT:** That's okay. They're all received
22 without objection.

23 **MR. TRIPI:** Publishing first Exhibit 53. 54. 55.

24 **BY MR. TRIPI:**

25 Q. Mr. Serio, what are these orange ones, Exhibit 55?

12:28PM 1 A. I'm not quite sure.

12:28PM 2 Q. You don't remember?

12:28PM 3 A. No.

12:28PM 4 **MR. TRIPI:** Now publishing 56.

12:28PM 5 Publishing 57.

12:28PM 6 And 58 and 59.

12:28PM 7 Judge, I think this is probably a good spot if you're
12:28PM 8 ready to break for lunch.

12:28PM 9 **THE COURT:** Yeah, perfect time. So we'll break for
12:28PM 10 lunch.

12:29PM 11 Please remember my instructions. Don't communicate
12:29PM 12 about the case with anyone including each other. Don't use
12:29PM 13 tools of technology to communicate about the case or research
12:29PM 14 the case. Don't read, or watch, or listen to any news
12:29PM 15 coverage if there is any while the trial is in progress. And
12:29PM 16 don't make up your mind about anything until you start
12:29PM 17 deliberating.

12:29PM 18 Let's come back about 1:30, maybe 1:40, we'll say
12:29PM 19 1:40. Okay? We'll see you then.

12:29PM 20 (Jury excused at 12:29 p.m.)

12:29PM 21 **THE COURT:** Anything before we break from the
12:29PM 22 government?

12:29PM 23 **MR. TRIPI:** No, Your Honor. Just we'll be moving
12:29PM 24 into the last property after the break. I want to assure you
12:30PM 25 I've curated it down from 99 photos that we did last time down

12:30PM 1 to 25.

12:30PM 2 **THE COURT:** That sounds pretty good.

12:30PM 3 **MR. TRIPI:** Yeah, I just want to let you know I did
12:30PM 4 that.

12:30PM 5 **THE COURT:** Okay. Anything from the defense?

12:30PM 6 **MR. MacKAY:** No, Your Honor.

12:30PM 7 **THE COURT:** Okay. We'll see you back here in about
12:30PM 8 an hour and ten minutes. Thanks, everybody.

12:30PM 9 **MR. MacKAY:** Thanks, Judge.

12:30PM 10 (Off the record at 12:30 p.m.)

01:47PM 11 (Back on the record at 1:47 p.m.)

01:47PM 12 (Jury not present.)

01:47PM 13 **THE CLERK:** All rise.

01:47PM 14 **THE COURT:** Please be seated.

01:47PM 15 **THE CLERK:** We are back on the record for the
01:47PM 16 continuation of the jury trial in case number 19-cr-227,
01:47PM 17 United States of America versus Joseph Bongiovanni.

01:47PM 18 All counsel and parties are present.

01:47PM 19 **THE COURT:** Okay. Anything we need to do before we
01:47PM 20 resume, Mr. Tripi?

01:47PM 21 **MR. TRIPI:** Not from the government.

01:47PM 22 **THE COURT:** Mr. MacKay?

01:47PM 23 **MR. MacKAY:** No, Your Honor. No.

01:47PM 24 **THE COURT:** Okay. Let's get the witness back in.
01:47PM 25 And let's bring the jurors back in, please, Pat.

(Jury seated at 1:48 p.m.)

THE COURT: Okay. The record will reflect that all our jurors are, again, present.

Folks, I think I told you we have a hard stop today at 4:30 because of my schedule. But next week, we may try to go to 5:30 more often than not, so if you come in in the morning and you can't stay until 5:30, let me know, okay? Because we're going to try to make up a little time by going until 5:30, get a couple hours in extra, okay?

I remind the witness he's still under oath.

Mr. Tripi, you may continue.

MR. TRIPI: Thank you, Your Honor.

BY MR. TRIPI:

Q. Mr. Serio, I'd like to move on to the April 18th, 2017 search of your property at 91 Grimsby.

Ultimately, are you aware that items were located and seized there by members of the Erie County Sheriff's Office?

A. Yes.

Q. I'm going to hand you up a number of exhibits. These are going to be photographs. I'll state them for the record and then I'll hand them up.

I'm going to hand you Government Exhibit 43A-78, 43A-71, 43A-1, 43A-2, 43A-8, 43A-9, 43A-10, 43A-14, 43A-15, 43A-17, 43A-19, 43A-20, 43A-22, 43A-36, 43A-37, 43A-39, 43A-40, 43A-45, 43A-46, 43A-47, 43A-49, 43A-73, 43A-80, 43A-81,

43A-82, 43A-84. I'm going to hand you up all those exhibits I've just listed, okay?

Take a moment, look at these, and when you're done please look up.

MR. MacKAY: Is 3 and 4 --

MR. COOPER: No, Parker.

MR. TRIPI: No, I skipped over those.

MR. COOPER: Also, no.

MR. MacKAY: Okay. Good. I got them all. Thanks.

BY MR. TRIPI:

Q. Do you recognize what's depicted in those exhibits?

A. Yes.

Q. Do each of those exhibits fairly and accurately depict your property that you had at 91 Grimsby, as well as items that you had stored at the location, as of the date of your arrest on April 18th, 2017?

A. Yes.

Q. Do they all fairly and accurately depict the items and the property as it existed that day?

A. Yes.

MR. TRIPI: The government offers that list that I've read into the record, Your Honor.

MR. MacKAY: No objection.

THE COURT: They are all received without objection.

MR. TRIPI: Thank you, Your Honor.

(GOV Exhibits 43A-78, 43A-71, 43A-1, 43A-2, 43A-8, 43A-9, 43A-10, 43A-14, 43A-15, 43A-17, 43A-19, 43A-20, 43A-22, 43A-36, 43A-37, 43A-39, 43A-40, 43A-45, 43A-46, 43A-47, 43A-49, 43A-73, 43A-80, 43A-81, 43A-82, 43A-84 were received in evidence.)

MR. TRIPI: Ms. Champoux, can we publish these, and starting with 43A-78?

BY MR. TRIPI:

Q. Okay. Is that just an overall front view of the residence, Mr. Serio?

A. Yes.

Q. And this is located in Kenmore, New York, Grimsby?

A. Tonawanda.

Q. Okay. What street does Grimsby run off of?

A. Colvin.

Q. Okay.

MR. TRIPI: Let's move on to 43A-1, please.

BY MR. TRIPI:

Q. Tell the jury what they're looking at here.

A. Packaged marijuana.

Q. Is this a cabinet inside the house?

A. Yes, in the kitchen.

Q. Kitchen cabinet?

MR. TRIPI: Let's go to 43A-2.

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Okay. I skipped over 43A-9. Let's go back to that for just a moment.

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1 **BY MR. TRIPI:**

2 Q. And what is that?

3 A. A vacuum sealer to repack the marijuana.

4 **MR. TRIPI:** Okay. Let's go to 43A-14.

5 **BY MR. TRIPI:**

6 Q. Is that a close-up of that same cocaine in the kitchen?

7 A. Yes.

8 **MR. TRIPI:** Let's go to 43A-15.

9 **BY MR. TRIPI:**

10 Q. Is that that vacuum sealer with some marijuana as it

11 looked before it was pulled out?

12 A. Yes.

13 **MR. TRIPI:** Let's go to 43A-17.

14 **BY MR. TRIPI:**

15 Q. Do you know what that is?

16 A. It looks to be a bag of marijuana.

17 **MR. TRIPI:** Let's go to 43A-19.

18 **BY MR. TRIPI:**

19 Q. What is that?

20 A. It's Mark Falzone's address and Social Security Number.

21 Q. And is that the address where you had marijuana delivered

22 several times from Jarrett Guy?

23 A. Yes.

24 Q. And you talked about that earlier today, right?

25 A. Yes.

01:55PM 1 **MR. TRIPI:** Okay. Let's go to 43A-20.

01:55PM 2 **BY MR. TRIPI:**

01:55PM 3 Q. Is that more marijuana that was inside the residence?

01:56PM 4 A. Yes.

01:56PM 5 **MR. TRIPI:** Let's go to 43A-22.

01:56PM 6 **BY MR. TRIPI:**

01:56PM 7 Q. What is that?

01:56PM 8 A. Those look like the fentanyl pills.

01:56PM 9 Q. So, earlier in your testimony, you talked about the pills
01:56PM 10 that you would distribute to Anthony Gerace and I think a
01:56PM 11 couple other people you mentioned?

01:56PM 12 A. Yes.

01:56PM 13 Q. And pills that you also used. Is that what you were
01:56PM 14 talking about?

01:56PM 15 A. Yes.

01:56PM 16 **MR. TRIPI:** Let's go to 43A-36.

01:56PM 17 **BY MR. TRIPI:**

01:56PM 18 Q. What is that?

01:56PM 19 A. That's a ledger with people that owed me money.

01:56PM 20 Q. Okay. Is that for drugs that you had provided?

01:56PM 21 A. Yes.

01:56PM 22 Q. Now, in that ledger, did you list out payments you were
01:56PM 23 making to DEA Bongiovanni in your ledger?

01:56PM 24 A. No.

01:56PM 25 Q. Why didn't you do that?

01:56PM 1 A. That was a fixed cost.

01:56PM 2 Q. Explain what that means for the jury.

01:56PM 3 A. It was the same amount every month, so there's no point
01:56PM 4 to write it down.

01:56PM 5 **MR. TRIPI:** Let's go to 43A-37.

01:56PM 6 **BY MR. TRIPI:**

01:56PM 7 Q. What is that?

01:57PM 8 A. My tax returns.

01:57PM 9 Q. And does that reflect the amount of money you were making
01:57PM 10 from your businesses?

01:57PM 11 A. Yes.

01:57PM 12 Q. That year you were claiming over a thousand -- excuse

01:57PM 13 me -- over \$1 million in adjusted gross income?

01:57PM 14 A. Correct.

01:57PM 15 **MR. TRIPI:** Let's go to 43A --

01:57PM 16 **BY MR. TRIPI:**

01:57PM 17 Q. That's not including the money you made selling drugs,
01:57PM 18 correct?

01:57PM 19 A. Correct.

01:57PM 20 **MR. TRIPI:** Let's go to 43A-39.

01:57PM 21 **BY MR. TRIPI:**

01:57PM 22 Q. Is that another scale inside of a drawer?

01:57PM 23 A. Yes.

01:57PM 24 **MR. TRIPI:** Let's go to 43A-40.

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1 **BY MR. TRIPI:**

2 Q. What are those?

3 A. Marijuana seeds.

4 Q. So we've talked about indoor grows you set up, we've

5 talked about outdoor grows. Are these the type of seeds you

6 would use?

7 A. Yes.

8 Q. Where would you get the seeds from?

9 A. Canada.

10 **MR. TRIPI:** Let's go to 43A-45.

11 **BY MR. TRIPI:**

12 Q. Is that a look inside one of those black garbage bags

13 with more marijuana in it?

14 A. Yes.

15 **MR. TRIPI:** Let's go to 43A-46.

16 **BY MR. TRIPI:**

17 Q. Is that another look inside a black bag with more

18 marijuana?

19 A. Yes.

20 **MR. TRIPI:** Let's go to 43A-47.

21 **BY MR. TRIPI:**

22 Q. Were you also storing some items in the garage?

23 A. Yes.

24 Q. Is this a view into the garage?

25 A. Yes.

01:58PM 1 **MR. TRIPI:** Let's go to 43A-49.

01:58PM 2 **BY MR. TRIPI:**

01:58PM 3 Q. How would you use those boxes?

01:58PM 4 A. I put the marijuana in those to trans -- transport them.

01:58PM 5 Q. Why did you put the marijuana in, like, U-Haul boxes?

01:58PM 6 A. Just either garbage bags or U-Haul, less conspicuous if I
01:58PM 7 had to walk out of the house with a U-Haul box.

01:58PM 8 **MR. TRIPI:** Okay. Let's go to 43A-73.

01:58PM 9 **BY MR. TRIPI:**

01:58PM 10 Q. Is that another scale, like, the third scale we've seen
01:58PM 11 inside the property?

01:58PM 12 A. Yes.

01:58PM 13 Q. Were all the scales used essentially to weigh marijuana
01:59PM 14 or other drugs?

01:59PM 15 A. Yes.

01:59PM 16 **MR. TRIPI:** Let's go to 43A-80.

01:59PM 17 **BY MR. TRIPI:**

01:59PM 18 Q. Is this a view inside another bag, a garbage bag with
01:59PM 19 more of that marijuana we talked about?

01:59PM 20 A. Yes.

01:59PM 21 **MR. TRIPI:** Let's go to 43A-81.

01:59PM 22 **BY MR. TRIPI:**

01:59PM 23 Q. Again, another view of more marijuana?

01:59PM 24 A. Yes.

01:59PM 25 **MR. TRIPI:** Let's go to 43A-82.

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1 **BY MR. TRIPI:**

2 Q. And this one, the packaging's a little different from

3 some of the other photos of marijuana; is that right?

4 A. Yes.

5 Q. Is this another example of the lower-grade marijuana?

6 A. Correct.

7 Q. So, the see-through bags that we saw packaged in the

8 see-through bags, that was higher quality?

9 A. Yes.

10 Q. And the -- this sort of brown wrapping is, like,

11 lower-grade marijuana?

12 A. Correct.

13 Q. And you sold it at different price points?

14 A. Yes.

15 **MR. TRIPI:** Let's go to 43A-84.

16 **BY MR. TRIPI:**

17 Q. Was this another box inside the residence with more of

18 the higher-grade marijuana?

19 A. Yes.

20 Q. Okay. Now, have you reviewed all the physical items of

21 evidence that were recovered from 91 Grimsby prior to today?

22 A. Yes.

23 Q. Okay. I'm going to hand you up government exhibits in a

24 moment, I'll read them into the record now. 265, 268, 269,

25 270, 275, 276, 279, 280, 281A, 281B, 271, I apologize I'm out

of numerical order now, 273, 266, and 272, for now.

Okay? I'm going to hand those up to you now.

MR. TRIPI: I'm going to start with handing up specifically 264 and 265, Your Honor.

BY MR. TRIPI:

Q. Mr. Serio, you've seen those items before today; is that right?

A. Yes.

Q. Can you confirm for this jury those are some of the items of marijuana that we just saw in the photographs that were inside 91 Grimsby?

A. Yes, they are.

Q. I'm going to hand you up 269 now.

Do you recognize 269 also to be more of the marijuana that was inside 91 Grimsby?

A. Yes.

Q. Okay. Handing up 272. Do you recognize Exhibit 272 to be more of the marijuana stored inside of your residence at 91 Grimsby?

A. Yes.

Q. Are each of these exhibits, I'll repeat them for the record, 265, 264, 269, and 272, other than the fact that they're in new packaging, in the same or substantially same condition as you had them at your residence --

A. Yes.

02:03PM 1 Q. -- at 91 Grimsby?

02:03PM 2 A. Yes.

02:03PM 3 **MR. TRIPI:** The government offers those exhibits,
02:03PM 4 Your Honor.

02:03PM 5 **MR. MacKAY:** No objection.

02:03PM 6 **THE COURT:** Received without objection.

02:03PM 7 **(GOV Exhibit 265, 264, 269, 272 were received in evidence.)**

02:03PM 8 **MR. TRIPI:** I'm going to publish them starting with
02:03PM 9 265.

02:03PM 10 Next, I've got 272 and 264.

02:03PM 11 **JUROR:** (Indecipherable) of the garbage bags that were
02:03PM 12 found?

02:03PM 13 **MR. TRIPI:** A juror asked a question, Judge.

02:03PM 14 **THE COURT:** No. So, folks, you can't ask that. You
02:04PM 15 folks cannot ask questions.

02:04PM 16 **JUROR:** I'm sorry.

02:04PM 17 **THE COURT:** Yeah, you folks cannot ask questions.
02:04PM 18 You can ask questions of me, but not of the lawyers, okay?

02:04PM 19 **MR. TRIPI:** One moment, Judge.

02:04PM 20 I'm going to ask the same question, I've cleared it
02:04PM 21 by counsel.

02:04PM 22 **BY MR. TRIPI:**

02:04PM 23 Q. This -- this black bag that we see in Exhibit 265, is
02:04PM 24 it -- is that an example of one of the black garbage bags
02:04PM 25 that you stored the marijuana in?

02:04PM 1 A. Yes.

02:04PM 2 Q. Thank you.

02:04PM 3 **MR. TRIPI:** And now publishing Exhibit 269.

02:05PM 4 **BY MR. TRIPI:**

02:05PM 5 Q. Next I'd like to hand up Exhibit 267, Mr. Serio.

02:05PM 6 Do you recognize that?

02:05PM 7 A. Yes.

02:05PM 8 Q. Are those green fentanyl pills that were fake OxyContin?

02:05PM 9 A. Yes.

02:05PM 10 Q. Same question. Other than being in this packaging that
02:05PM 11 law enforcement put it in, is it in the same or substantially
02:05PM 12 same condition as when was in your residence at 91 Grimsby?

02:05PM 13 A. Yes.

02:05PM 14 **MR. TRIPI:** The government offers 267, Your Honor.

02:05PM 15 **MR. MacKAY:** No objection.

02:05PM 16 **THE COURT:** Received without objection.

02:05PM 17 **(GOV Exhibit 267 was received in evidence.)**

02:05PM 18 **BY MR. TRIPI:**

02:05PM 19 Q. Next I'm going to hand up Exhibit 266. Do you recognize
02:06PM 20 Exhibit 266?

02:06PM 21 A. Yes.

02:06PM 22 Q. What is that?

02:06PM 23 A. Cocaine.

02:06PM 24 Q. Is that the cocaine we saw in the kitchen cabinet in 91
02:06PM 25 Grimsby in that photo?

02:06PM 1 A. Yes.

02:06PM 2 Q. Other than the fact that it's now repackaged per law
02:06PM 3 enforcement, is it in the same condition as it was in your
02:06PM 4 residence?

02:06PM 5 A. Yes.

02:06PM 6 **MR. TRIPI:** The government offers 266, Your Honor.

02:06PM 7 **MR. MacKAY:** No objection.

02:06PM 8 **THE COURT:** Received without objection.

02:06PM 9 **(GOV Exhibit 266 was received in evidence.)**

02:06PM 10 **BY MR. TRIPI:**

02:06PM 11 Q. Now, Mr. Serio, you've been dealing with cocaine for a
02:06PM 12 long time?

02:06PM 13 A. Yes.

02:06PM 14 Q. Over time, does it sometimes change color a little bit?

02:06PM 15 A. Yes.

02:06PM 16 Q. Does this appear to have changed color just a little bit
02:06PM 17 from when you had it?

02:06PM 18 A. Yes.

02:06PM 19 Q. Can you explain why that happens?

02:06PM 20 A. Because there's acetone in it, and over time the acetone
02:06PM 21 turns the -- the white cocaine turns beige.

02:06PM 22 Q. And what is acetone used for in the context of cocaine
02:06PM 23 distribution?

02:06PM 24 A. It's to make it hard again. When someone cuts it, they
02:07PM 25 grind it up, put the cut in, put acetone on it, clamp it, and

02:07PM 1 then it becomes a rock again.

02:07PM 2 Q. Now, you said "cut." What is "cut" in the context of
02:07PM 3 cocaine?

02:07PM 4 A. It's usually -- they use inositol, which is a vitamin,
02:07PM 5 and it's relatively cheap. It makes, say, 1 ounce into
02:07PM 6 2 ounces, so you double your profit.

02:07PM 7 Q. Is it basically another white powder people mix into the
02:07PM 8 cocaine to make it look like more cocaine?

02:07PM 9 A. Yes.

02:07PM 10 Q. Okay. And could the amount of cut impact the quality of
02:07PM 11 the cocaine?

02:07PM 12 A. Yes.

02:07PM 13 **MR. TRIPI:** Publishing 266, Your Honor.

02:07PM 14 **BY MR. TRIPI:**

02:07PM 15 Q. Now, in those photos we just went through, there were
02:07PM 16 several scales; is that right?

02:08PM 17 A. Yes.

02:08PM 18 Q. I'm going to hand you up Exhibits 270 and 275.

02:08PM 19 Do you recognize Exhibits 270 and 275?

02:08PM 20 A. Yes.

02:08PM 21 Q. What are those?

02:08PM 22 A. Those are scales.

02:08PM 23 Q. Are those the scales in the photos that we just saw a few
02:08PM 24 moments ago that were seized from 91 Grimsby?

02:08PM 25 A. Yes.

02:08PM 1 **MR. TRIPI:** The government offers 270 and 275,
02:08PM 2 Your Honor.

02:08PM 3 **MR. MacKAY:** No objection.

02:08PM 4 **THE COURT:** Received without objection.

02:08PM 5 **(GOV Exhibits 270, 275 were received in evidence.)**

02:08PM 6 **BY MR. TRIPI:**

02:08PM 7 Q. Does one bag have two of the scales, and the other just
02:08PM 8 one?

02:08PM 9 A. Yes.

02:08PM 10 Q. Next I'm going to hand you 271 and 274.

02:09PM 11 Do you recognize Exhibits 271 and 274?

02:09PM 12 A. Yes.

02:09PM 13 Q. What do you recognize those to be?

02:09PM 14 A. Adderall.

02:09PM 15 Q. Were these in the prescription bottles that we saw in
02:09PM 16 some of the photos?

02:09PM 17 A. Yes.

02:09PM 18 Q. Other than the fact that the packaging's been changed
02:09PM 19 because it's in law enforcement possession now, are these the
02:09PM 20 same items that were in those pictures that you testified
02:09PM 21 about?

02:09PM 22 A. Yes.

02:09PM 23 **MR. TRIPI:** The government offers 274 and 271,
02:09PM 24 Your Honor.

02:09PM 25 **MR. MacKAY:** No objection.

02:09PM 1 **THE COURT:** They're received without objections.

02:09PM 2 **(GOV Exhibits 271, 274 were received in evidence.)**

02:09PM 3 **MR. TRIPI:** Thank you.

02:09PM 4 **BY MR. TRIPI:**

02:09PM 5 Q. What would you use the Adderall for, Mr. Serio?

02:09PM 6 A. Just a -- it was a stimulant, because I have ADD. But
02:09PM 7 they cut off my prescriptions, so I used to buy it on the
02:09PM 8 street.

02:09PM 9 Q. How did the Adderall mix with or impact when you used the
02:10PM 10 other pills, the opiates?

02:10PM 11 A. It would bring me up. It's -- it's more like a cleaner
02:10PM 12 cocaine.

02:10PM 13 Q. Okay. Earlier, I think maybe Monday, you described
02:10PM 14 levelling off?

02:10PM 15 A. Yes.

02:10PM 16 Q. Is Adderall a drug you would take after you used opiates
02:10PM 17 to kind of wake yourself up?

02:10PM 18 A. Yes.

02:10PM 19 Q. Do you call that "levelling off?"

02:10PM 20 A. Yes.

02:10PM 21 Q. I'm handing up Exhibit 268. Do you recognize Exhibit
02:10PM 22 268?

02:10PM 23 A. Yes.

02:10PM 24 Q. What do you recognize it to be?

02:10PM 25 A. Marijuana seeds.

02:10PM 1 Q. Were those the marijuana seeds we saw in the photo not
02:10PM 2 too long ago?

02:10PM 3 A. Yes.

02:10PM 4 Q. Again, other than the fact that it's in law enforcement
02:10PM 5 custody now, in their packaging, are they in the same or
02:10PM 6 substantially same condition today as when they were in your
02:10PM 7 residence at 91 Grimsby?

02:10PM 8 A. Yes.

02:10PM 9 **MR. TRIPI:** The government offers 268, Your Honor.

02:10PM 10 **MR. MacKAY:** No objection.

02:10PM 11 **THE COURT:** Received without objection.

02:10PM 12 **(GOV Exhibit 268 was received in evidence.)**

02:10PM 13 **MR. TRIPI:** Thank you. Publishing for the jury.

02:11PM 14 **BY MR. TRIPI:**

02:11PM 15 Q. Mr. Serio, does each seed in there represent one
02:11PM 16 marijuana plant?

02:11PM 17 A. Yes.

02:11PM 18 Q. Handing up Exhibit 276. Actually, placing it on the
02:11PM 19 floor next to him, Mr. Serio, can you see that sufficiently?

02:11PM 20 A. Yes.

02:11PM 21 Q. Is Exhibit 276 there the same marijuana and boxed that's
02:11PM 22 depicted in Exhibit 43A-84?

02:11PM 23 A. Yes.

02:11PM 24 Q. Again, other than the fact it's in law enforcement
02:11PM 25 custody and has some other labelling on it, is it in the same

1 or substantially same condition today as when it was in 91
2 Grimsby?

3 A. Yes.

4 **MR. TRIPI:** The government offers 276, Your Honor.

5 **MR. MacKAY:** No objection.

6 **THE COURT:** Received without objection.

7 **(GOV Exhibit 276 was received in evidence.)**

8 **MR. TRIPI:** I'm going to try to publish it for the
9 jury without spilling it everywhere this time.

10 **BY MR. TRIPI:**

11 Q. How many pounds do you think are in this box, Mr. Serio?

12 A. Probably 20 or 30. Probably 20.

13 Q. So I shouldn't be struggling this much?

14 I'm next handing up 277, 278, and 279.

15 Do you recognize 277, 278, and 279?

16 A. Yes.

17 Q. What do you recognize that to be?

18 A. Marijuana.

19 Q. Is that more of the marijuana that was seized from inside
20 the premises at 91 Grimsby on April 18th, 2017?

21 A. Correct.

22 Q. Other than the fact that it's now packaged in law
23 enforcement packaging, is it in the same or substantially
24 same condition today as when it was seized?

25 A. Yes.

Q. Now, does that also include a couple duffle bags and garbage bags that the marijuana was in?

A. Correct.

MR. TRIPI: The government offers Exhibits 277, 278, and 279, Your Honor.

MR. MacKAY: No objection.

THE COURT: They are received without objection.

(GOV Exhibits 277, 278, 279 were received in evidence.)

MR. TRIPI: Publishing them for the jury. The first up is 277. Next we'll do 278 and 279 together, Your Honor.

BY MR. TRIPI:

Q. Last, I'm going to hand up 281A and B.

Take a look in there. Do you recognize Exhibit 281A and 281B?

A. Yes.

Q. Is that more of the marijuana that was seized from inside 91 Grimsby?

A. Yes.

Q. Is it in the same or substantially same condition today as the last time you saw it --

A. Yes.

Q. -- other than the fact that it's repackaged by law enforcement?

A. Yes.

MR. TRIPI: The government offers 281A and B,

02:15PM 1 Your Honor.

02:15PM 2 **MR. MacKAY:** No objection.

02:15PM 3 **THE COURT:** Received without objection.

02:15PM 4 **(GOV Exhibits 281A, 281B were received in evidence.)**

02:15PM 5 **MR. TRIPI:** Thank you. Publishing it for the jury.

02:15PM 6 **BY MR. TRIPI:**

02:15PM 7 Q. All right. Now, your Range Rover was seized by law
02:15PM 8 enforcement, impounded that day?

02:15PM 9 A. Correct.

02:15PM 10 Q. Did you have some stuff in there, too?

02:15PM 11 A. Yes.

02:15PM 12 Q. Did you have some money?

02:15PM 13 A. Yes.

02:15PM 14 Q. Did you have some evidence of your drug dealing in there?

02:15PM 15 A. Yes.

02:15PM 16 Q. Okay. I'm going to hand up a few more photos, Government
02:16PM 17 Exhibits 43A-93, 43A-94, 43A-95, 43A-96, 43A-97, 43A-98, and
02:16PM 18 43A-99.

02:16PM 19 Take a moment and look at these. When you're done, look
02:16PM 20 back at me.

02:16PM 21 Do you recognize -- pardon me -- what's depicted in those
02:16PM 22 photos?

02:16PM 23 A. Yes.

02:16PM 24 Q. What is that?

02:16PM 25 A. That is marijuana, money, and cell phones.

02:16PM 1 Q. All as were contained inside your Range Rover on
02:16PM 2 April 18th, 2017?

02:16PM 3 A. Correct.

02:17PM 4 Q. Do they fairly and accurately depict your Range Rover and
02:17PM 5 the items you had in it the day you were arrested,
02:17PM 6 April 18th, 2017?

02:17PM 7 A. Yes.

02:17PM 8 **MR. TRIPI:** The government offers those Exhibits,
02:17PM 9 Your Honor.

02:17PM 10 **MR. MacKAY:** No objection.

02:17PM 11 **THE COURT:** Received without objection.

02:17PM 12 **(GOV Exhibits 43A-93, 43A-94, 43A-95, 43A-96,**
02:17PM 13 **43A-97, 43A-98, and 43A-99 were received in evidence.)**

02:17PM 14 **MR. TRIPI:** Thank you. Ms. Champoux, can we start
02:17PM 15 with 43A-93?

02:17PM 16 **BY MR. TRIPI:**

02:17PM 17 Q. This is the front shot of your Range Rover and your
02:17PM 18 license plate?

02:17PM 19 A. Yes.

02:17PM 20 **MR. TRIPI:** Let's go to 43A-94, Ms. Champoux.

02:17PM 21 **BY MR. TRIPI:**

02:17PM 22 Q. Tell the jury what they're looking at here.

02:17PM 23 A. A pound of marijuana.

02:17PM 24 Q. And how would you conceal it in your Range Rover?

02:17PM 25 A. The back seat folds up, and I put it in there and put it

02:17PM 1 back down.

02:17PM 2 Q. Okay.

02:17PM 3 **MR. TRIPI:** Let's go to 43A-99.

02:17PM 4 **BY MR. TRIPI:**

02:17PM 5 Q. Is that another view or angle of how you would conceal
02:17PM 6 the marijuana in the vehicle?

02:17PM 7 A. Yes.

02:17PM 8 **MR. TRIPI:** All right. Let's go to 43A-96.

02:17PM 9 **BY MR. TRIPI:**

02:18PM 10 Q. And what's depicted there?

02:18PM 11 A. A box of money.

02:18PM 12 Q. How much money were you driving around with,
02:18PM 13 approximately?

02:18PM 14 A. I think it was 20-, 22,000.

02:18PM 15 **MR. TRIPI:** Ms. Champoux, can we go to 43A-97?

02:18PM 16 **BY MR. TRIPI:**

02:18PM 17 Q. Is that the money?

02:18PM 18 A. Yes.

02:18PM 19 Q. Closer view?

02:18PM 20 And did you also have multiple cell phones with you in
02:18PM 21 the car?

02:18PM 22 A. Yes.

02:18PM 23 **MR. TRIPI:** Can we go to 43A-98.

02:18PM 24 **BY MR. TRIPI:**

02:18PM 25 Q. Okay. What do we see here?

02:18PM 1 A. Three cell phones.

02:18PM 2 Q. All right. I'm going to work from the top, down.

02:18PM 3 First -- first one that I indicated to you, the top of

02:18PM 4 the screen, top of the photo down, what's that one?

02:18PM 5 A. An iPhone. It was one of my personal ones, I think it

02:18PM 6 was broke, though.

02:18PM 7 Q. Okay. And now there's another one next to that. What is

02:18PM 8 that?

02:18PM 9 A. That was another personal iPhone.

02:19PM 10 Q. iPhone?

02:19PM 11 And then the third one down, is that a Samsung flip

02:19PM 12 phone?

02:19PM 13 A. Yes.

02:19PM 14 Q. What type of phone was that?

02:19PM 15 A. It's a burner phone.

02:19PM 16 Q. Okay. With respect to the phones depicted, this Samsung

02:19PM 17 and the iPhone that we see the screens on, did you consent to

02:19PM 18 a search of those phones ultimately, for the FBI to search

02:19PM 19 those phones?

02:19PM 20 A. Yes.

02:19PM 21 Q. And did you do that, you know, with your lawyer's

02:19PM 22 knowledge and consent as well?

02:19PM 23 A. Yes.

02:19PM 24 Q. We'll get back to those phones in a moment.

02:19PM 25 But were those -- were the cell phone and the iPhone

1 extracted in terms of the content, the text messages and call
2 logs that you had?

3 A. Yes.

4 Q. Have you reviewed those items?

5 A. Correct.

6 Q. Okay. We'll go into those in a little bit, okay?

7 **MR. TRIPI:** You can take that down, Ms. Champoux.

8 **BY MR. TRIPI:**

9 Q. Now before I get more sort of fully into those phones, I
10 want to ask you a couple questions, though, okay?

11 A. Okay.

12 Q. So, from late 2012 to 2015, were marijuana and cocaine
13 distribution activities happening at your house at 697
14 Lebrun?

15 A. Yes.

16 Q. Was that happening in 2013?

17 A. Yes.

18 Q. Was that happening in 2014?

19 A. Yes.

20 Q. Was that happening in 2015?

21 A. Yes.

22 Q. Did it continue in 2016?

23 A. Yes.

24 Q. 2017?

25 A. Yes.

02:20PM 1 Q. Were people that were part of your distribution network
02:20PM 2 coming and going?
02:20PM 3 A. Yes.
02:20PM 4 Q. Were U-Hauls utilized to deliver marijuana to that
02:21PM 5 property?
02:21PM 6 A. Yes.
02:21PM 7 Q. Were you making trips from that property to New York City
02:21PM 8 and back that were drug related?
02:21PM 9 A. Yes.
02:21PM 10 Q. In that window of time, did you also store marijuana at
02:21PM 11 Lou Selva's house?
02:21PM 12 A. Yes.
02:21PM 13 Q. At times, were drugs delivered to 82 Sycamore, your
02:21PM 14 warehouse?
02:21PM 15 A. Yes.
02:21PM 16 Q. Were a whole bunch of other people selling marijuana and
02:21PM 17 other drugs you supplied?
02:21PM 18 A. Yes.
02:21PM 19 Q. At times, were you driving around with money and drugs in
02:21PM 20 your vehicle?
02:21PM 21 A. Yes.
02:21PM 22 Q. Were you storing firearms and marijuana in your house?
02:21PM 23 A. Yes.
02:21PM 24 Q. Were you paying Defendant Bongiovanni monthly to protect
02:21PM 25 you because you were doing all of that?

02:21PM 1 A. Yes.

02:21PM 2 Q. By that point in time, was Mike Masecchia making about --
02:21PM 3 how much was he making about per month with you?

02:22PM 4 A. At least 20,000.

02:22PM 5 Q. How much were you making a month?

02:22PM 6 A. Depends. Anywhere, 75-, 150,000. Sometimes more.

02:22PM 7 **MR. TRIPI:** Ms. Champoux, can we pull up Government
02:22PM 8 Exhibit 145, please?

02:22PM 9 I'd like that go to paragraph 12A. Actually, let's
02:22PM 10 go back to first page for a moment.

02:22PM 11 **BY MR. TRIPI:**

02:22PM 12 Q. Mr. Serio, the -- the residence and the location here is
02:22PM 13 not important, but can you read what it says under the
02:22PM 14 address?

02:22PM 15 A. Located in the Western New York --

02:22PM 16 Q. No, right here. I'm going to circle it.

02:22PM 17 A. Oh, okay. Federal law enforcement officer.

02:22PM 18 Q. No. The big bold capital sentence.

02:22PM 19 A. Oh. Application for search warrant.

02:22PM 20 Q. Okay. And do you see the date here?

02:23PM 21 A. April 14, 2017.

02:23PM 22 Q. Okay. So that's about four days before you're arrested?

02:23PM 23 A. Yes.

02:23PM 24 Q. And do you see the name of the agent associated with this
02:23PM 25 application?

02:23PM 1 A. Yes.

02:23PM 2 Q. What's the name?

02:23PM 3 A. Joseph Bongiovanni.

02:23PM 4 **MR. TRIPI:** Ms. Champoux, let's go to paragraph 12A,
02:23PM 5 please.

02:23PM 6 **BY MR. TRIPI:**

02:23PM 7 Q. Have you ever seen this document before, Mr. Serio?

02:23PM 8 A. I believe at the last trial.

02:23PM 9 Q. Okay. I want you to read paragraph 12A from the word "my
02:23PM 10 discussions," and then continue reading into paragraph,
02:23PM 11 subparagraph A.

02:23PM 12 A. My discussions with other experienced special agents and
02:23PM 13 task force officers of the DEA, I have learned --

02:23PM 14 Q. Can you move the mic towards you so we can hear?

02:23PM 15 A. I'm sorry.

02:23PM 16 Q. That's okay.

02:23PM 17 A. My discussions with other experienced special agents and
02:24PM 18 task force officers of the DEA, I have learned:

02:24PM 19 A. That narcotics traffickers frequently maintain at
02:24PM 20 their residence or place of business, or at residences of
02:24PM 21 other drug associates, amounts of controlled substances and
02:24PM 22 large amounts of currency on hand in order to maintain and
02:24PM 23 finance their ongoing narcotics business.

02:24PM 24 **MR. TRIPI:** Ms. Champoux, next to this document, can
02:24PM 25 we pull up Exhibits 43A-80 and 43A-82?

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1 BY MR. TRIPI:

2 Q. Are those images of controlled substances you had stored
3 in your residence, 43A-80 and 82?

4 A. Yes.

5 MR. TRIPI: Ms. Champoux, can we take down 43A-80 and
6 82 and put up 42A-11? We need to keep up 12A, though.
7 42A-11.

8 BY MR. TRIPI:

9 Q. Is 42A-11 marijuana you had in 697 Lebrun?

0 A. Yes.

1 MR. MacKAY: Judge, I'm going to object. Can we
2 approach on this line of questioning?

3 THE COURT: Sure, come on up.

4 (Sidebar discussion held on the record.)

5 MR. MacKAY: I think it's something akin to a 403
6 objection, that he's sort of trying to compare the evidence
7 and then get the jury to make a legal conclusion about whether
8 there's probable cause based on what a separate search warrant
9 embodies in its -- in its terms.

0 But, so what he's doing is going through the
1 paragraphs in the search warrant that he used to support
2 probable cause, and then comparing them to what's found.

3 I think that's asking the jury to make an improper
4 legal conclusion to assume it's probable cause that
5 Mr. Bongiovanni would have found or should have found through

02:26PM 1 a search warrant.

02:26PM 2 **MR. TRIPI:** All I'm doing is using evidence that's in
02:26PM 3 through a witness showing them photos that are in, things that
02:26PM 4 were seized from him, and showing another document that's also
02:26PM 5 in evidence. I'm not asking the jury -- I'm not arguing at
02:26PM 6 all right now, I'm just going through evidence. It's fully
02:26PM 7 appropriate.

02:26PM 8 **THE COURT:** Yeah, I think that argument he made might
02:26PM 9 be inappropriate, but I think the fact that he's shown that
02:26PM 10 Mr. Bongiovanni says these are things that from my experience
02:26PM 11 I know that drug dealers do, and then shows that this
02:26PM 12 gentleman, who's a drug dealer, is doing that, I don't see any
02:26PM 13 problem with that.

02:26PM 14 **MR. MacKAY:** I think if it's -- I mean, I understand
02:26PM 15 the Court's analysis. I think if it goes further in any sort
02:27PM 16 of questioning about that, then I think that certainly crossed
02:27PM 17 the line into --

02:27PM 18 **THE COURT:** It might. It might. And I would
02:27PM 19 consider it then. But I don't -- I'm not hearing any reason I
02:27PM 20 would sustain the objection now.

02:27PM 21 **MR. MacKAY:** Right. And you know what? I don't know
02:27PM 22 how long we're going to go on this, but I know we did have
02:27PM 23 Paul Parisi go through the search warrant already and what's
02:27PM 24 in there, so --

02:27PM 25 **THE COURT:** I -- I don't think it's crossed any lines

so far, so I'm going to overrule the objection.

MR. MacKAY: Thank you.

(End of sidebar discussion.)

THE COURT: The objection is overruled.

MR. TRIPI: Can we pull that back up, please,
Ms. Champoux?

BY MR. TRIPI:

Q. So did you keep drugs and money at your residence?

A. Yes.

MR. TRIPI: Let's pull up Exhibit 145 at
paragraph 12B.

Did we lose our equipment? Okay.

BY MR. TRIPI:

Q. Can you read that paragraph B, please?

A. That narcotics traffickers frequently maintain books,
records, receipts, notes, ledgers, airline tickets, money
orders, and other papers relating to transport -- to the
transportation, ordering, sale, and distribution of
controlled substances, including butyrfentanyl.

Q. You can skip the butyrfentanyl part.

A. Okay.

Q. Continue reading from "furthermore."

A. Furthermore, I know that the aforementioned books,
records, receipts, notes, ledgers, et cetera, are generally
maintained where the traffickers have ready access to them,

02:28PM 1 such as a residence.

02:28PM 2 Q. Did you keep records, receipts, notes, and ledgers at
02:28PM 3 your residences?

02:28PM 4 A. Yes.

02:28PM 5 **MR. TRIPI:** Ms. Champoux, can we pull up exhibits
02:28PM 6 next to this 43A-36 and 37?

02:29PM 7 **BY MR. TRIPI:**

02:29PM 8 Q. In 43A-37, do we see some of your tax documents?

02:29PM 9 A. Yes.

02:29PM 10 Q. And 43A-36, do we see a ledger that you had at 91
02:29PM 11 Grimsby?

02:29PM 12 A. Yes.

02:29PM 13 **BY MR. TRIPI:** We can pull down 43A-37 and 36,
02:29PM 14 Ms. Champoux.

02:29PM 15 And let's go to paragraph 12-C of Exhibit 145,
02:29PM 16 please.

02:29PM 17 Give me one second, Judge. Sorry.

02:29PM 18 **BY MR. TRIPI:**

02:29PM 19 Q. Can you read paragraph 12-C?

02:29PM 20 A. That it is common for dealers to secrete contraband,
02:29PM 21 proceeds of drug sales, and records of drug transactions in
02:29PM 22 secure locations within the residence.

02:29PM 23 Q. Did you keep contraband, proceeds, and money from drug
02:29PM 24 sales, and records of your transactions at your residences?

02:29PM 25 A. Yes.

02:30PM 1 Q. Let's read 12-D.

02:30PM 2 A. That persons involved in drug trafficking or significant
02:30PM 3 drug traffickers conceal proceeds of drug sales, records of
02:30PM 4 drug transactions, firearms, ammunition, caches of drugs,
02:30PM 5 large amounts of currency, financial instruments, keys for
02:30PM 6 safe deposit boxes, precious metals, jewelry, and other items
02:30PM 7 of value, and/or proceeds of drug transactions and/or of
02:30PM 8 evidence of financial transactions relating to obtaining,
02:30PM 9 transferring, secreting, or spending large sums of money made
02:30PM 10 from engaging in narcotics trafficking in their residence and
02:30PM 11 other secure locations, including at the residence of their
02:30PM 12 drug associates and/or family members, in order to conceal
02:30PM 13 them from law enforcement authorities.

02:30PM 14 Q. Did you keep firearms and other records consistent with
02:30PM 15 what you just read in that paragraph at 697 Lebrun?

02:30PM 16 A. Yes.

02:31PM 17 Q. Did you keep it at 91 Grimsby?

02:31PM 18 A. Yes.

02:31PM 19 Q. Did you keep drugs at times at 82 Sycamore?

02:31PM 20 A. Yes.

02:31PM 21 Q. Did you put 82 Sycamore in the name of a family member to
02:31PM 22 conceal it from yourself?

02:31PM 23 A. Yes.

02:31PM 24 Q. Who was that family member again?

02:31PM 25 A. Sam Tedesco.

02:31PM 1 Q. Can we read 12-B, please?

02:31PM 2 A. That narcotics traffickers commonly maintain records of
02:31PM 3 telephone calls and billing statements, addresses, or
02:31PM 4 telephone numbers in books or papers which reflects names,
02:31PM 5 addresses, and telephone numbers of their associates in their
02:31PM 6 narcotics trafficking organization, as well as photographs of
02:31PM 7 themselves and their drug-trafficking associates.

02:31PM 8 Q. Did you keep names and addresses of people in your
02:31PM 9 organization in your possession?

02:31PM 10 A. Yes.

02:31PM 11 Q. Were a lot of those stored in your phone?

02:31PM 12 A. Yes.

02:31PM 13 Q. Can you read paragraph 12-F, please?

02:31PM 14 A. That traffickers in Schedule I and II controlled
02:31PM 15 substances commonly keep paraphernalia for manufacturing,
02:32PM 16 packaging, weighing, processing and distributing of
02:32PM 17 Schedule I and II controlled substances.

02:32PM 18 Q. Did you keep packaging material in your properties?

02:32PM 19 A. Yes.

02:32PM 20 Q. Did you keep heat sealers in your properties?

02:32PM 21 A. Yes.

02:32PM 22 Q. Did you keep money counters in your properties?

02:32PM 23 A. Yes.

02:32PM 24 Q. Were all those things you used as part of your drug
02:32PM 25 trade?

02:32PM 1 A. Yes.

02:32PM 2 Q. Did you keep scales in your property?

02:32PM 3 A. Yes.

02:32PM 4 Q. Can you read paragraph 12-G?

02:32PM 5 A. That I'm aware -- that I am aware that the courts have
02:32PM 6 recognized that unexplained wealth is prohibitive of evidence
02:32PM 7 of crimes motivated, at least in part by greed, in particular
02:32PM 8 trafficking in controlled substances, I am also aware.

02:32PM 9 **MR. TRIPI:** Ms. Champoux, can we go on to page 11 so
02:32PM 10 we can scroll down a little bit?

02:32PM 11 **BY MR. TRIPI:**

02:32PM 12 Q. It continues up here, Mr. Serio.

02:33PM 13 A. That many courts have found that weapons, including
02:33PM 14 firearms and ammunition, are among the tools of the trade in
02:33PM 15 narcotics businesses.

02:33PM 16 Q. Did you have evidence of wealth in your residences?

02:33PM 17 A. Yes.

02:33PM 18 Q. Was your residence itself evidence of wealth?

02:33PM 19 A. Yes.

02:33PM 20 Q. Did you have firearms and ammunition inside 697 Lebrun?

02:33PM 21 A. Yes.

02:33PM 22 Q. Could we read -- last one I want to read here is 12-I.

02:33PM 23 A. That in my experience that drug traffickers routinely
02:33PM 24 register their personal vehicles or vehicles used as
02:33PM 25 conveyances for drug trafficking in the names of persons

1 other than themselves. This practice is routinely done for
2 the purpose of deceiving law enforcement as to the identity
3 of the true owner or operator of the vehicle, and to protect
4 the vehicle from possible seizure or future litigation.

5 Q. In terms of -- I asked you about 82 Sycamore and 608
6 Michigan, that property was in the name of a relative?

7 A. Correct.

8 Q. Okay.

9 **MR. TRIPI:** You can take that down, Ms. Champoux.

10 **BY MR. TRIPI:**

11 Q. By the time you had been arrested, had you been working
12 directly in a partnership with Mike Masecchia since 2008?

13 A. Yes.

14 Q. You never got arrested between 2008 and April of 2017?

15 A. No.

16 Q. Did Masecchia ever get arrested?

17 A. No.

18 Q. Had you made millions of dollars?

19 A. Yes.

20 Q. Was Masecchia doing well?

21 A. Yes.

22 **MR. TRIPI:** Just a moment, please.

23 I just need a moment to get organized, Your Honor,
24 I'm sorry.

25 Ms. Champoux, for a few moments can we keep up

Government Exhibit 43A-89 on the screen?

BY MR. TRIPI:

Q. Mr. Serio, I'm going to start by handing up Government Exhibit 48. I've taken it out of the envelope. Can you take a look at that?

Do you recognize Exhibit 48 to be your Samsung flip phone that's depicted in Government Exhibit 43A-98?

A. Yes.

Q. Can you just push that to the side for me for a moment?

Next I'm going to hand up Government Exhibit 44.

Can you look at Exhibit 44 for me?

Do you recognize that?

A. Yes.

Q. What do you recognize it to be?

A. My broken iPhone.

Q. Is this the iPhone with the crack that we see right there with the screen on?

A. I think it's the top iPhone. The piece is missing right there.

Q. All right. Well that one, if that was the one that was able to be extracted, is it the one in the middle then?

A. Yes.

Q. Okay. I'm going to hand you up Government Exhibits 45 and 46.

Do you remember looking at that CD that's Government

02:37PM 1 Exhibit 45?

02:37PM 2 A. Yes.

02:37PM 3 Q. Do you remember reviewing that and confirming it's the
02:38PM 4 contents of your iPhone that you consented for the FBI to
02:38PM 5 search?

02:38PM 6 A. Yes.

02:38PM 7 Q. And with respect to Government Exhibit 46, I want you to
02:38PM 8 look at that for a moment.

02:38PM 9 With respect to Government Exhibit 46, do you recognize
02:38PM 10 that to be contacts that you had stored in your iPhone?

02:38PM 11 A. Yes.

02:38PM 12 Q. Do those fairly and accurately depict a number of the
02:38PM 13 contacts stored in your iPhone, not all of them, but a number
02:38PM 14 of them?

02:38PM 15 A. Yes.

02:38PM 16 Q. Now I'd like to hand you up Government Exhibit 49. It's
02:38PM 17 a printout. Have you looked at that before today?

02:38PM 18 A. Yes.

02:38PM 19 Q. Do you recognize Exhibit 49 to be extracted information
02:38PM 20 from the Samsung flip phone?

02:38PM 21 A. Yes.

02:39PM 22 **MR. TRIPI:** Your Honor, the government's going to
02:39PM 23 offer just Government Exhibit 46 and 49, so the extraction
02:39PM 24 reports.

02:39PM 25 **MR. MacKAY:** No objection to those two exhibits.

02:39PM 1 **THE COURT:** They're received without objection.

02:39PM 2 **(GOV Exhibits 46, 49 were received in evidence.)**

02:39PM 3 **BY MR. TRIPI:**

02:39PM 4 Q. I'd like to work through some of these, through
02:39PM 5 Exhibit 46 a little bit, Mr. Serio, okay?

02:39PM 6 **MR. TRIPI:** We can take down 43A-98, Ms. Champoux.
02:39PM 7 And if we can please pull up Government Exhibit 46?

02:39PM 8 **BY MR. TRIPI:**

02:40PM 9 Q. Again, do you recognize this to be contacts that you had
02:40PM 10 stored in your iPhone?

02:40PM 11 A. Yes.

02:40PM 12 **MR. TRIPI:** Ms. Champoux, can we please zoom in on
02:40PM 13 maybe the first four of them so that we can see it better?

02:40PM 14 **BY MR. TRIPI:**

02:40PM 15 Q. All right. I'd like to go through some of these, entry
02:40PM 16 number 1, who is that?

02:40PM 17 A. Angelo Natali.

02:40PM 18 Q. And you have an entry number for him there?

02:40PM 19 A. Yes.

02:40PM 20 Q. Entry number 2, who is that?

02:40PM 21 A. Anthony Gerace.

02:40PM 22 Q. And you have a phone number listed for him there?

02:40PM 23 A. Yes.

02:40PM 24 Q. Is he actually entries number 2 and 3?

02:40PM 25 A. Correct.

02:40PM 1 Q. And that's the Anthony Gerace that you've been discussing
02:40PM 2 earlier; is that right?

02:40PM 3 A. Yes.

02:40PM 4 Q. Okay. Entry number 4, Anthony Mayo, who is that?

02:40PM 5 A. Another associate of mine.

02:40PM 6 Q. You've mentioned him before; is that right?

02:40PM 7 A. Yes.

02:40PM 8 Q. Is he someone you would get -- distribute those pills to?

02:40PM 9 A. No, that would be Anthony Greco.

02:41PM 10 Q. Okay. Anthony Mayo, what was his role?

02:41PM 11 A. Just marijuana.

02:41PM 12 Q. Distributor?

02:41PM 13 A. Yes.

02:41PM 14 Q. Okay. Let's go to lines 5, and 6.

02:41PM 15 You have an entry there for Ash S. Who is that?

02:41PM 16 A. I'm not quite sure because them contacts were also in
02:41PM 17 my -- my wife's contacts were my contacts.

02:41PM 18 Q. Did your wife know an Ashley Schuh?

02:41PM 19 A. Yes.

02:41PM 20 Q. Do you believe that to be the entry for that Ash S?

02:41PM 21 A. Could possibly, because there was another Ash S that
02:41PM 22 lived in one of my apartments.

02:41PM 23 **MR. TRIPI:** All right. Can we that down and just for
02:41PM 24 the witness only.

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1 **BY MR. TRIPI:**

2 Q. I'm going to see if I can refresh your recollection and

3 have you look at Government Exhibit 3536BA.

4 **MR. TRIPI:** If we can go to page 83?

5 **BY MR. TRIPI:**

6 Q. Read that to yourself. And then let me know -- look back

7 at me when you're done reading it, okay?

8 A. Okay.

9 **MR. TRIPI:** Take that down, Ms. Champoux.

10 **BY MR. TRIPI:**

11 Q. Did that refresh your recollection who -- as to who you

12 believe Ash S is in your phone?

13 A. Yes.

14 Q. And who do you believe that to be?

15 A. Ashley Schuh.

16 Q. Would that be the sister of Defendant Bongiovanni's wife?

17 A. Yes.

18 Q. Did your brother at a certain point, Tom, have a

19 relationship with Ashley Schuh?

20 A. Yes.

21 Q. Describe that relationship for the jury.

22 A. It wasn't a good relationship.

23 Q. When was it?

24 A. That was 2016 into '17.

25 Q. Were you still involved in all these distribution

02:42PM 1 activities at that point?

02:42PM 2 A. Yes.

02:42PM 3 Q. Did Ms. Schuh stay at that carriage house that your
02:42PM 4 brother had?

02:42PM 5 A. Yes.

02:42PM 6 Q. So she basically lived on the premises, right?

02:42PM 7 A. Yes.

02:42PM 8 Q. Was that after Mario Vacanti had moved out of the
02:42PM 9 carriage house?

02:42PM 10 A. Correct.

02:42PM 11 Q. Okay. So for all intents and purposes, Ashley Schuh
02:43PM 12 lived at your brother's property?

02:43PM 13 A. Correct.

02:43PM 14 Q. He lived in the main house, and she lived in the carriage
02:43PM 15 house?

02:43PM 16 A. Correct.

02:43PM 17 **MR. TRIPI:** Okay. Let's pull Exhibit 46 back up,
02:43PM 18 Ms. Champoux, and I'd like to, if you can highlight 6, 7, and
02:43PM 19 8 for me, or zoom in, I should say, or -- not 6. I'm sorry,
02:43PM 20 7, 8 and 9. I'm sorry about that.

02:43PM 21 **BY MR. TRIPI:**

02:43PM 22 Q. All right. 7 and 8, you have an entry for Baker; is that
02:43PM 23 right?

02:43PM 24 A. Yes.

02:43PM 25 Q. Two entries, looks like the same phone number each time

02:43PM 1 though, right?

02:43PM 2 A. Correct.

02:43PM 3 Q. Now, earlier you indicated Chris Baker's number was one
02:43PM 4 of the numbers you passed along to make sure it was clear,
02:43PM 5 right?

02:43PM 6 A. Yes.

02:43PM 7 **MR. TRIPI:** Ms. Champoux, can we pull up Government
02:43PM 8 Exhibit -- next to this, Exhibit 8A at page 354?

02:43PM 9 **BY MR. TRIPI:**

02:43PM 10 Q. Do you see a document here with a date of March 13th,
02:44PM 11 2023?

02:44PM 12 A. Yes.

02:44PM 13 Q. 2013, excuse me.

02:44PM 14 A. Yes.

02:44PM 15 Q. By that point, you're dealing with Jarrett Guy, correct?

02:44PM 16 A. Correct.

02:44PM 17 Q. Do you see a name of a financially liable party,
02:44PM 18 Christopher Baker?

02:44PM 19 A. Yes.

02:44PM 20 Q. Do you see a phone number that was associated with you?

02:44PM 21 A. Yes.

02:44PM 22 Q. 716-830-3226?

02:44PM 23 A. Correct, that was my phone number.

02:44PM 24 Q. So you had your phone in Baker's name, right?

02:44PM 25 A. Yes.

02:44PM 1 Q. So if we go back to Exhibit 145, remember those
02:44PM 2 paragraphs that talked about putting things in other people's
02:44PM 3 name?

02:44PM 4 A. Yes.

02:44PM 5 Q. Did you have your phone in Chris Baker's name?

02:44PM 6 A. I did.

02:44PM 7 Q. But we also see a contact home phone number here, which
02:44PM 8 is, I should say for the record, your phone number under user
02:44PM 9 information was 716-830-3226, correct?

02:45PM 10 A. Yes.

02:45PM 11 Q. Now, in the contact home phone for this document we're
02:45PM 12 looking at, there's another phone number there, do you see
02:45PM 13 that?

02:45PM 14 A. Yes.

02:45PM 15 Q. Can you read that out loud?

02:45PM 16 A. 716-816-6849.

02:45PM 17 Q. Is that the same number you had in your phone for Chris
02:45PM 18 Baker?

02:45PM 19 A. Yes.

02:45PM 20 **MR. TRIPI:** Okay. And we can take -- well, I'll just
02:45PM 21 clear that screen. Keep that up for a moment, Ms. Champoux.

02:45PM 22 **BY MR. TRIPI:**

02:45PM 23 Q. Next I'd like you to look at Government Exhibit 46.

02:45PM 24 **MR. TRIPI:** If we can zoom in on line 9.
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1 **BY MR. TRIPI:**

2 Q. Do you see that exhibit?

3 A. Yes.

4 Q. Is that a phone number, two phone numbers you had for

5 R.K. or Bob R.K.?

6 A. Yes.

7 Q. That's the person you were tipped off, the defendant's

8 informant, right?

9 A. Correct.

10 **MR. TRIPI:** Okay. We can unzoom that Ms. Champoux.

11 Just for the record, actually, zoom back in. I should --

12 **BY MR. TRIPI:**

13 Q. Can you tell us what the two phone numbers you had in

14 your phone for Mr. R.K. were?

15 A. 716-605-2778, and 716-935-0252.

16 **MR. TRIPI:** Okay. Ms. Champoux, next to this exhibit

17 can we pull up Exhibit 9E-4, please?

18 I'd like to keep 46 up, thank you.

19 **BY MR. TRIPI:**

20 Q. Do you see what this says at the top?

21 A. Confidential source establishment.

22 Q. Now, have you ever seen this document before?

23 A. This is -- earlier today?

24 Q. If you haven't seen it today, have you seen it before?

25 A. No.

02:46PM 1 Q. Okay.

02:46PM 2 **MR. TRIPI:** Keep those up, Ms. Champoux.

02:46PM 3 I need 9E-4.

02:46PM 4 Give me just a moment here.

02:47PM 5 Can we zoom in right there, please?

02:47PM 6 **BY MR. TRIPI:**

02:47PM 7 Q. Do you see a telephone number listed on Exhibit 9E-4?

02:47PM 8 A. Yes.

02:47PM 9 Q. What's that number?

02:47PM 10 A. 716-935-0252.

02:47PM 11 **MR. TRIPI:** Now, Ms. Champoux, can you please zoom
02:47PM 12 in at the top where it has the name?

02:47PM 13 **BY MR. TRIPI:**

02:47PM 14 Q. Under box 1, do you see name of source there?

02:47PM 15 A. Source?

02:47PM 16 Q. Right here.

02:47PM 17 A. Oh, R.K.

02:47PM 18 Q. Okay. Is 716-935-0252 the same phone number you had for
02:47PM 19 R.K.?

02:47PM 20 A. Yes.

02:47PM 21 Q. One of the two numbers, right?

02:47PM 22 A. Correct.

02:47PM 23 **MR. TRIPI:** Okay. We can take those down. Can we
02:48PM 24 go back to 46, please? And can we zoom in on 10, 11, and 12.

25

02:49PM 1 **MR. TRIPI:** Ms. Champoux -- actually, let me ask
02:49PM 2 another question.

02:49PM 3 **BY MR. TRIPI:**

02:49PM 4 Q. Did he own a tattoo shop?

02:49PM 5 A. Yes.

02:49PM 6 Q. What was it called?

02:49PM 7 A. Hardcore Tattoo.

02:49PM 8 Q. Where was it located?

02:49PM 9 A. On Elmwood Avenue.

02:49PM 10 **MR. TRIPI:** All right, Ms. Champoux, let's go to
02:49PM 11 Government Exhibit 8A at page 357.

02:49PM 12 **BY MR. TRIPI:**

02:49PM 13 Q. Do you see a document there in the top left corner that
02:49PM 14 has a date of March 13th, 2013?

02:49PM 15 A. Yes.

02:49PM 16 Q. Do you see at the top it says subscriber information?

02:49PM 17 A. Yes.

02:49PM 18 Q. Do you see where it says financially liable party?

02:49PM 19 A. Yes.

02:49PM 20 Q. Do you see the name there?

02:50PM 21 A. Hardcore Tattoo Studio.

02:50PM 22 Q. Do you see the address?

02:50PM 23 A. 902 Elmwood Avenue.

02:50PM 24 Q. Is that where Frank Burkhardt's tattoo studio was?

02:50PM 25 A. Yes.

02:50PM 1 Q. Do you see a user information with a phone number?

02:50PM 2 A. Is it --

02:50PM 3 Q. Down there.

02:50PM 4 A. 716-578-6917.

02:50PM 5 **MR. TRIPI:** Let's go back to Exhibit 46,

02:50PM 6 Ms. Champoux, and pull up 13. Entry 13.

02:50PM 7 **BY MR. TRIPI:**

02:50PM 8 Q. Is that a different phone number than you had for --

02:50PM 9 A. Yes.

02:50PM 10 Q. -- for him?

02:50PM 11 **MR. TRIPI:** Okay. Let's take that down. Next I'd
02:50PM 12 like to -- we can take down, no, leave 8A up. We'll need it
02:50PM 13 in just a second.

02:50PM 14 Let's zoom in on Exhibit 46 at 16 and 17.

02:51PM 15 **BY MR. TRIPI:**

02:51PM 16 Q. Is that an individual you know named Frank Parisi?

02:51PM 17 A. Yes.

02:51PM 18 Q. What phone number did you have for him?

02:51PM 19 A. Area code 716-481-8111.

02:51PM 20 **MR. TRIPI:** And let's go to 18 and 19, please.

02:51PM 21 **BY MR. TRIPI:**

02:51PM 22 Q. Who is at entry 18 and 19?

02:51PM 23 A. Frank Tripi.

02:51PM 24 Q. And what phone number did you have for him?

02:51PM 25 A. 716-429-6445.

02:51PM 1 Q. And is that someone that you would communicate with?

02:51PM 2 A. Yes.

02:51PM 3 Q. Is that someone that you spoke with and who has been at
02:51PM 4 your house at 697 Lebrun?

02:51PM 5 A. Yes.

02:51PM 6 Q. Is that someone you texted with?

02:51PM 7 A. Yes.

02:52PM 8 **MR. TRIPI:** Let's go to boxes 20 and 21.

02:52PM 9 **BY MR. TRIPI:**

02:52PM 10 Q. Focusing in on 21, do you see that entry?

02:52PM 11 A. Yes.

02:52PM 12 Q. Is Hot Dog, Paul Francoforte?

02:52PM 13 A. Correct.

02:52PM 14 Q. What number did you have for him?

02:52PM 15 A. 716-866-2687.

02:52PM 16 Q. Okay.

02:52PM 17 **MR. TRIPI:** Ms. Champoux, in Exhibit 8A, can we go to
02:52PM 18 page 347?

02:52PM 19 **BY MR. TRIPI:**

02:52PM 20 Q. Do you see at the top left it has a date of March 21st,
02:52PM 21 2013?

02:52PM 22 A. Yes.

02:52PM 23 Q. This is looking at Exhibit 8A at page 347?

02:52PM 24 A. Yes.

02:52PM 25 Q. Do you see that it says subscriber information?

02:52PM 1 A. Subscriber information? Yes.

02:52PM 2 Q. Under the box labeled financially liable party, do you

02:52PM 3 see Paul Francoforte's name?

02:52PM 4 A. Financially -- yes.

02:53PM 5 Q. If you go down a couple boxes to the user information, do

02:53PM 6 you see a phone number there?

02:53PM 7 A. Yes.

02:53PM 8 Q. What phone number do you see?

02:53PM 9 A. 716-866-2687.

02:53PM 10 Q. Is that the same phone number you had for Paul

02:53PM 11 Francoforte, Hot Dog?

02:53PM 12 A. Yes.

02:53PM 13 **MR. TRIPI:** Ms. Champoux, you can take down 8A, and

02:53PM 14 if you can pull up 26J at page 7?

02:53PM 15 And, Ms. Champoux, we need to go to page 7. Thank

02:53PM 16 you.

02:53PM 17 **BY MR. TRIPI:**

02:53PM 18 Q. Looking at Exhibit 26J at page 7. You've never seen that

02:53PM 19 before, correct?

02:53PM 20 A. No.

02:53PM 21 Q. Okay. But do you see that phone number, 716-866-2687,

02:53PM 22 right here?

02:53PM 23 A. Yes.

02:53PM 24 Q. Is that the same phone number you had for Paul

02:54PM 25 Francoforte?

02:54PM 1 A. Yes.

02:54PM 2 **MR. TRIPI:** We can take down 26J, Ms. Champoux.

02:54PM 3 All right. I'd like to go to Exhibit 46, please, and
02:54PM 4 let's work through entries 22 to 25.

02:54PM 5 **BY MR. TRIPI:**

02:54PM 6 Q. We've already talked about Hot Dog. 23, is that a phone
02:54PM 7 number you had for Jacob Martinez?

02:54PM 8 A. Yes.

02:54PM 9 Q. Is 24 a different number you had for him?

02:54PM 10 A. Yes.

02:54PM 11 Q. And is 25 a duplicate of the phone number you had in
02:54PM 12 entry 23?

02:54PM 13 A. Yes.

02:54PM 14 **MR. TRIPI:** Let's go to 26, 27, and 28.

02:54PM 15 **BY MR. TRIPI:**

02:54PM 16 Q. Looking at 27, who's that?

02:54PM 17 A. Jarrett Guy.

02:54PM 18 Q. Is he the Jarrett Guy we've been talking about who was
02:54PM 19 the supplier from Vancouver, Canada?

02:55PM 20 A. Yes.

02:55PM 21 Q. Is that a main phone number you had for him?

02:55PM 22 A. Yes.

02:55PM 23 Q. Did you guys also communicate on burners?

02:55PM 24 A. Yes.

02:55PM 25 Q. 28, who is that?

02:55PM 1 A. Jimmy Rivera.

02:55PM 2 Q. And you've talked about him already?

02:55PM 3 A. Yes.

02:55PM 4 Q. What phone number did you have for him?

02:55PM 5 A. 716-364-2163.

02:55PM 6 **MR. TRIPI:** Ms. Champoux, let's go 29 through 31,
02:55PM 7 let's say.

02:55PM 8 **BY MR. TRIPI:**

02:55PM 9 Q. All right. Entry number 31 is the one I want to focus
02:55PM 10 on. Who's that?

02:55PM 11 A. John Robinson.

02:55PM 12 Q. And you've talked about John Robinson's role in your
02:55PM 13 organization already; is that right?

02:55PM 14 A. Correct.

02:55PM 15 Q. What phone number did you have for him?

02:55PM 16 A. 716-481-8002.

02:55PM 17 **MR. TRIPI:** Okay. Ms. Champoux, I'd like to take
02:55PM 18 this down just for a moment, and go over to 100A.1, please.

02:56PM 19 And I'd like you to go to 716-481-8002 toll analysis.
02:56PM 20 It's one up from there. Thank you.

02:56PM 21 **BY MR. TRIPI:**

02:56PM 22 Q. Do you see that marker at the top of the page there that
02:56PM 23 seems to have written a phone number?

02:56PM 24 A. Yes.

02:56PM 25 Q. Is that John Robinson's phone number?

02:56PM 1 A. Yes.

02:56PM 2 **MR. TRIPI:** Okay. Let's take that down,

02:56PM 3 Ms. Champoux, and let's go back to Exhibit 46. And let's

02:56PM 4 highlight 32 through 35.

02:56PM 5 **BY MR. TRIPI:**

02:57PM 6 Q. Number 35, you have an entry for a John Suppa?

02:57PM 7 A. Yes.

02:57PM 8 Q. What number do you have for him?

02:57PM 9 A. 716-553-7365.

02:57PM 10 **MR. TRIPI:** Okay. Ms. Champoux, can we take -- pull
02:57PM 11 up Exhibit 8A at page 158?

02:57PM 12 **BY MR. TRIPI:**

02:57PM 13 Q. Do you see on this document, Exhibit 8A at page 158, a
02:57PM 14 location, 1195 Hertel Avenue?

02:57PM 15 A. Yes.

02:57PM 16 Q. Is that a premises you knew to be associated with John
02:57PM 17 Suppa?

02:57PM 18 A. Yes.

02:57PM 19 Q. Is that where you set up a grow?

02:57PM 20 A. Yes.

02:57PM 21 Q. Do you see a phone number, 716-553-7365?

02:57PM 22 A. Correct.

02:57PM 23 Q. Is that the phone number you had for John Suppa?

02:57PM 24 A. Yes.

02:57PM 25 **MR. TRIPI:** Okay. We can take down Exhibit 8A and

1 let's go back to 46, Ms. Champoux. And let's go 37 through
2 the bottom of that page. 37 to 42.

3 **BY MR. TRIPI:**

4 Q. Kelly Brace, we talked about him. He was whose house you
5 were at when you were arrested, right?

6 A. Yes.

7 Q. 41, Krista Masecchia, who's that?

8 A. That's Mike Masecchia's wife.

9 Q. And an entry 42, you have a phone number for her?

10 A. Yes.

11 **MR. TRIPI:** Let's go to 43 through, say, 46.

12 **BY MR. TRIPI:**

13 Q. We've talked about Krista Masecchia. 44, 45, 46, those
14 are different emails you had for your own wife, correct?

15 A. Correct.

16 **MR. TRIPI:** Let's go to 47 through, say, 51.

17 **BY MR. TRIPI:**

18 Q. Look at 48. Is that an entry for Mark Falzone?

19 A. Yes.

20 Q. What phone number did you have for Mark Falzone?

21 A. I believe that might be -- because it says Leah, that's
22 Mark's girlfriend.

23 Q. Okay. Okay. He had a girlfriend named --

24 A. Leah.

25 Q. -- Leah? Okay. We'll go to below that, entry number 50,

02:59PM 1 you have an entry for a Lou Selva?

02:59PM 2 A. Correct.

02:59PM 3 Q. Is that the Lou Selva we've been talking about?

02:59PM 4 A. Yes.

02:59PM 5 Q. And you're -- the phone number you had for him was

02:59PM 6 716-903-1654?

02:59PM 7 A. Correct.

02:59PM 8 **MR. TRIPI:** Ms. Champoux, can we pull up Exhibit 8A
02:59PM 9 and go to page 197.

02:59PM 10 **BY MR. TRIPI:**

02:59PM 11 Q. Do you see a document there that has Lou Selva's name and
02:59PM 12 his -- the phone number, 716-903-1654, at Exhibit A at
02:59PM 13 page 197?

02:59PM 14 A. Yes.

02:59PM 15 Q. Same phone number you had for Lou Selva?

03:00PM 16 A. Yes.

03:00PM 17 **MR. TRIPI:** Okay. We can take down Exhibit 8A,
03:00PM 18 Ms. Champoux.

03:00PM 19 **THE COURT:** Mr. Tripi, do you think you're going to
03:00PM 20 be a while?

03:00PM 21 **MR. TRIPI:** On the plus side, Judge, we are wrapping
03:00PM 22 up relatively soon, but yes, this is a good time.

03:00PM 23 **THE COURT:** Please remember my instructions about not
03:00PM 24 communicating about the case, not talking with each other.

03:00PM 25 See you back here in 15 minutes.

03:00PM 1 **MR. TRIPI:** Thank you.

03:00PM 2 (Jury excused at 3:00 p.m.)

03:00PM 3 **THE COURT:** Anything for the record?

03:00PM 4 **MR. TRIPI:** No, Your Honor.

03:00PM 5 **MR. MacKAY:** No, Your Honor.

03:00PM 6 **THE COURT:** Okay. We'll see you in ten or 15
03:01PM 7 minutes.

03:01PM 8 **THE CLERK:** All rise.

03:17PM 9 (Back on the record at 3:17 p.m.)

03:17PM 10 (Jury not present.)

03:17PM 11 **THE CLERK:** All rise.

03:17PM 12 **THE COURT:** Please be seated.

03:17PM 13 **THE CLERK:** We are back on the record for the
03:17PM 14 continuation of the jury trial in case number 19-cr-227,
03:18PM 15 United States of America versus Joseph Bongiovanni.

03:18PM 16 All counsel and parties are present.

03:18PM 17 **THE COURT:** Anything for the record before we bring
03:18PM 18 the jury back?

03:18PM 19 **MR. TRIPI:** No, Your Honor.

03:18PM 20 **MR. MacKAY:** Just one thing with the timing, Judge.
03:18PM 21 I think Mr. Tripi indicated he's probably going somewhere
03:18PM 22 around another half hour with this witness.

03:18PM 23 **MR. TRIPI:** I'm hoping not, but, yeah.

03:18PM 24 **MR. MacKAY:** But I appreciate the Court wanting to
03:18PM 25 squeeze every minute out of everything, and I can start on my

03:18PM 1 cross. Is the Court open if, like, I get near a subject
03:18PM 2 change maybe a little bit early, if we get near a subject
03:18PM 3 change in the cross-examination to break for the day, just
03:18PM 4 because this witness so large and the subject tends to be so
03:18PM 5 large, in chunks.

03:18PM 6 **THE COURT:** I've got no problem with breaking where
03:18PM 7 you want to break.

03:18PM 8 **MR. MacKAY:** Okay.

03:18PM 9 **THE COURT:** I have a hard stop at 4:30. Any time
03:18PM 10 between 4 and 4:30, I'm fine with.

03:18PM 11 **MR. MacKAY:** Okay, thank you.

03:18PM 12 **THE COURT:** Okay. So ready to go?

03:18PM 13 **MR. TRIPI:** Yes, Judge.

03:18PM 14 **THE COURT:** Let's bring them back, please, Pat.

03:20PM 15 (Jury seated at 3:20 p.m.).

03:20PM 16 **THE COURT:** The record will reflect that all our
03:20PM 17 jurors are present again.

03:20PM 18 I remind the witness he's still under oath.

03:20PM 19 Mr. Tripi, you may continue.

03:20PM 20 **MR. TRIPI:** Thank you, Your Honor.

03:20PM 21 Ms. Champoux, in Exhibit 46, can we zoom in on rows
03:20PM 22 55 and 56?

03:20PM 23 **BY MR. TRIPI:**

03:20PM 24 Q. All right. Is that the entry you had for Mark Falzone?

03:20PM 25 A. Yes.

03:21PM 1 Q. What number did you have for him?

03:21PM 2 A. Area code 716-208-5678.

03:21PM 3 **MR. TRIPI:** Ms. Champoux, could we go Exhibit 8A at
03:21PM 4 page 325, please?

03:21PM 5 **BY MR. TRIPI:**

03:21PM 6 Q. Do you see Mark Falzone's name on the account billing for
03:21PM 7 this phone number?

03:21PM 8 A. Yes.

03:21PM 9 Q. And do you see some subscriber details with a personal
03:21PM 10 telephone number and a number under it?

03:21PM 11 A. Yes.

03:21PM 12 Q. What's that number there?

03:21PM 13 **MR. TRIPI:** Ms. Champoux, can you move the cursor a
03:21PM 14 little bit?

03:21PM 15 **THE WITNESS:** 716-208-5678.

03:21PM 16 **BY MR. TRIPI:**

03:21PM 17 Q. Is that the same number you had for Mark Falzone?

03:21PM 18 A. Correct.

03:21PM 19 Q. Okay.

03:21PM 20 **MR. TRIPI:** We can take down 8A for just a moment.
03:21PM 21 Next I'd like to zoom in on Exhibit 46. Rows 58 and 59.

03:22PM 22 **BY MR. TRIPI:**

03:22PM 23 Q. Is that an entry you had for Mark Kagan?

03:22PM 24 A. Yes.

03:22PM 25 Q. What phone number did you have for him?

03:22PM 1 A. Area code 941-993-6367.

03:22PM 2 Q. And I don't want to go through everything you said about
03:22PM 3 Mark Kagan, but was he one of your suppliers that you talked
03:22PM 4 about earlier in your testimony?

03:22PM 5 A. Correct.

03:22PM 6 **MR. TRIPI:** Ms. Champoux, can we pull up Exhibit 8A
03:22PM 7 at page 370?

03:22PM 8 **BY MR. TRIPI:**

03:22PM 9 Q. Do you see an entry there for Mark Kagan under
03:22PM 10 financially liable party with a phone number, contact home
03:22PM 11 phone 941-993-6367 on Exhibit 8A at page 370?

03:22PM 12 A. Yes.

03:22PM 13 Q. And do you also see that under that same phone number
03:23PM 14 under the user information section?

03:23PM 15 A. Yes.

03:23PM 16 Q. Okay.

03:23PM 17 **MR. TRIPI:** Could we go to Exhibit 46 again? I'd
03:23PM 18 like to go to row 64.

03:23PM 19 **BY MR. TRIPI:**

03:23PM 20 Q. And whose phone number is that?

03:23PM 21 A. Matt Suppa.

03:23PM 22 Q. And was it his property where the grows were in the
03:23PM 23 Southern Tier?

03:23PM 24 A. No, that's Mark Suppa.

03:23PM 25 Q. Is that his brother?

03:23PM 1 A. Correct.

03:23PM 2 Q. What number did you have for Matt?

03:23PM 3 A. 716-553-0099.

03:23PM 4 Q. Okay.

03:23PM 5 **MR. TRIPI:** Ms. Champoux, can we pull up Exhibit 8A
03:23PM 6 and go to page 201? And could you zoom in on that box up at
03:23PM 7 the top?

03:23PM 8 **BY MR. TRIPI:**

03:24PM 9 Q. Do you see the name, last name Matthew -- or, excuse me,
03:24PM 10 last name Suppa, first name Matthew, third row down, fourth
03:24PM 11 row down?

03:24PM 12 A. Fourth row down, yes.

03:24PM 13 Q. And do you see a phone number 716-553-0099?

03:24PM 14 A. Yes.

03:24PM 15 Q. Is that the same phone number you had for Matt Suppa?

03:24PM 16 A. Correct.

03:24PM 17 Q. Right above that, do you see an entry for a David Hersey?

03:24PM 18 A. Yes.

03:24PM 19 Q. Is that one of the people you also said was involved in
03:24PM 20 the outdoor grows?

03:24PM 21 A. Yes.

03:24PM 22 **MR. TRIPI:** Okay. We can take that down,
03:24PM 23 Ms. Champoux. You can clear the screen.

03:24PM 24 Next I'd like to go to 68. Row 68 on Exhibit 46.

25

1 contact with Michael Masecchia, area code 716-812-0664, per
2 S.A. Bongiovanni.

3 Q. Now you've never seen those documents before, correct?

4 A. No.

5 Q. But that's the phone number you had for Mike Masecchia,
6 right?

7 A. Correct.

8 **MR. TRIPI:** And we can zoom out of that,
9 Ms. Champoux. I'd like to zoom in on rows 71 and 72.

10 **BY MR. TRIPI:**

11 Q. Is that the Mike Moynihan you've talked about in your
12 testimony that lived with you for a time and helped with the
13 distribution activity?

14 A. Yes.

15 Q. And what phone number did you have for him?

16 A. Area code 716-573-2174.

17 **MR. TRIPI:** Ms. Champoux, can we go to Exhibit 8A at
18 page 239 to 240. Stop there. Stop there.

19 **BY MR. TRIPI:**

20 Q. On page 239, do you see that same phone number where it
21 says subject number?

22 A. Yes.

23 Q. What's that phone number?

24 A. 716-573-2174.

25 Q. That's the phone number you had for Moynihan?

03:27PM 1 A. Correct.

03:27PM 2 Q. And down below on page 240, do you see an old address
03:27PM 3 associated with Mike Moynihan?

03:27PM 4 A. Yes.

03:27PM 5 **MR. TRIPI:** Okay. Ms. Champoux, we can close out of
03:27PM 6 that for a moment.

03:27PM 7 Let's go to row 73 and 74. And zoom in there on
03:27PM 8 Exhibit 46, please.

03:27PM 9 **BY MR. TRIPI:**

03:27PM 10 Q. Who's that?

03:27PM 11 A. Rob Rine.

03:27PM 12 Q. Is that the individual you talked about earlier in your
03:27PM 13 testimony who helped you take the marijuana that belonged to
03:27PM 14 Santiago Gale that T.S. stored in your warehouse?

03:27PM 15 A. Correct.

03:28PM 16 Q. What phone number did you have for him?

03:28PM 17 A. 716-510-2974.

03:28PM 18 Q. And would Rine also get marijuana from you and distribute
03:28PM 19 it?

03:28PM 20 A. Occasionally.

03:28PM 21 Q. Okay. What number did you have for him again?

03:28PM 22 A. 716-510-2974.

03:28PM 23 **MR. TRIPI:** Ms. Champoux, can we pull up Exhibit 8A
03:28PM 24 at page 314?

25

[illegible]

03:33PM 1 **MR. TRIPI:** Yes, Judge.

03:33PM 2 **THE COURT:** Defense ready, too?

03:33PM 3 **MR. MacKAY:** Yes.

03:33PM 4 **THE COURT:** Let's bring them back.

03:34PM 5 (Jury seated at 3:34 p.m.)

03:34PM 6 **THE COURT:** I'm sorry, folks. The record will

03:34PM 7 reflect that all jurors are present again.

03:34PM 8 I remind the witness he's still under oath.

03:34PM 9 Mr. Tripi, you may continue.

03:34PM 10 **MR. TRIPI:** Thank you, Your Honor.

03:34PM 11 Ms. Champoux, on Exhibit 46, can you zoom in on rows

03:34PM 12 81 and 82?

03:34PM 13 **BY MR. TRIPI:**

03:34PM 14 Q. And does 81 -- we're looking at row 81, does that have a
03:34PM 15 phone number, a 561 number for your brother Tom?

03:34PM 16 A. Yes.

03:34PM 17 **MR. TRIPI:** Ms. Champoux, can we pull up Government
03:34PM 18 Exhibit 8A page 365?

03:35PM 19 **BY MR. TRIPI:**

03:35PM 20 Q. Do you see your brother Tom's name under the financially
03:35PM 21 liable party portion of that?

03:35PM 22 A. Yes.

03:35PM 23 Q. And do you see that number 561-801-0221 in the user
03:35PM 24 information section?

03:35PM 25 A. Yes.

03:35PM 1 Q. And was that a main phone number used by your brother?

03:35PM 2 A. Yes.

03:35PM 3 Q. Again, at times did he use burner phones?

03:35PM 4 A. Yes.

03:35PM 5 **MR. TRIPI:** Okay. Ms. Champoux, can we also bring
03:35PM 6 up Exhibit 100A.1? And can you click on 561-801-0221,
03:35PM 7 Serio T toll analysis?

03:35PM 8 **BY MR. TRIPI:**

03:35PM 9 Q. And is this that same phone number that you had for your
03:35PM 10 brother, 561-801-0221, highlighted in purple?

03:35PM 11 A. Yes.

03:35PM 12 Q. Do you also see in row 15 that phone number 481-8022
03:36PM 13 associated with John Robinson that we looked at earlier?

03:36PM 14 A. Yes.

03:36PM 15 Q. And do you see a name in the upper right-hand corner
03:36PM 16 written there?

03:36PM 17 A. Bongo.

03:36PM 18 Q. Are the names of Chris Baker, Frank Burkhart, Tom Serio,
03:36PM 19 John Robinson, Lou Selva, Mark Falzone, Mark Kagan, Mike
03:36PM 20 Moynihan, Robert Rine, and the Suppas, names that you
03:36PM 21 understood to be passed along to Bongiovanni over time?

03:36PM 22 A. Besides Matt Suppa.

03:36PM 23 Q. All of the rest of those names, yes?

03:36PM 24 A. Yes.

03:36PM 25 Q. All the rest of those names came from you?

03:36PM 1 A. Yes.

03:36PM 2 Q. The phone numbers that we looked at?

03:36PM 3 A. Yes.

03:36PM 4 Q. You wanted to make sure all those were good?

03:36PM 5 A. Yes.

03:37PM 6 Q. Up until your arrest, were those phones all clear as far
03:37PM 7 as you understood it?

03:37PM 8 A. Yes.

03:37PM 9 **MR. TRIPI:** Ms. Champoux, can we pull up Government
03:37PM 10 Exhibit 8A at page 307? So we can take 100A.1 down.

03:37PM 11 **BY MR. TRIPI:**

03:37PM 12 Q. Did you indicate that there was a Jay Campbell that you
03:37PM 13 would sell -- sell product to?

03:37PM 14 A. Yes.

03:37PM 15 Q. Do you see a name with an email associated with a Jason
03:37PM 16 Campbell there?

03:37PM 17 A. Yes.

03:37PM 18 Q. Do you see a phone number associated with that record?

03:37PM 19 A. Yes.

03:37PM 20 Q. And who is Jason Campbell again?

03:37PM 21 A. He would sell marijuana for me.

03:37PM 22 Q. Okay. Is that a name and a number you passed along over
03:38PM 23 time?

03:38PM 24 A. Yes.

03:38PM 25 **MR. TRIPI:** You can take those down, Ms. Champoux.

03:38PM

1

BY MR. TRIPI:

03:38PM

2

Q. All right. I'd like to just briefly talk about your

03:38PM

3

Samsung burner phone, you looked at that as Exhibit 49. That

03:38PM

4

is in evidence; do you remember that?

03:38PM

5

A. Yes.

03:38PM

6

Q. And you've looked at that before, correct?

03:38PM

7

A. Yes.

03:38PM

8

Q. Fair to say as it relates to that phone, there's a

03:38PM

9

limited amount of actual information in terms of your

03:38PM

10

contacts in that phone?

03:38PM

11

A. Correct.

03:38PM

12

Q. Minimal amount of actual names?

03:38PM

13

A. Yes.

03:38PM

14

Q. Is it basically just call logs that you were using to

03:38PM

15

coordinate drug meetings?

03:38PM

16

A. Yes.

03:38PM

17

Q. Does it have some cryptic text messaging?

03:38PM

18

A. Yes.

03:38PM

19

MR. TRIPI: Okay. Ms. Champoux, I want to pull up

03:38PM

20

Government Exhibit 8A one more time. I'd like to go to

03:39PM

21

page 6. Can you zoom in, first of all, box 5, can we zoom in

03:39PM

22

on that?

03:39PM

23

BY MR. TRIPI:

03:39PM

24

Q. Can you read who this is by, Mr. Serio?

03:39PM

25

A. Joseph Bongiovanni.

03:39PM 1 Q. Okay.

03:39PM 2 **MR. TRIPI:** Zoom out of there.

03:39PM 3 And can you zoom in on box -- I think that's
03:39PM 4 number 8, Ms. Champoux?

03:39PM 5 **BY MR. TRIPI:**

03:39PM 6 Q. Do you see a date listed where this was prepared?

03:39PM 7 A. Yes.

03:39PM 8 Q. And what date was that?

03:39PM 9 A. It was July 7th, 2014.

03:39PM 10 Q. At that time, you were still getting marijuana from
03:39PM 11 Jarrett Guy, right?

03:39PM 12 A. Correct.

03:39PM 13 Q. And that year you're storing marijuana at Lou Selva's
03:39PM 14 house?

03:39PM 15 A. Yes.

03:39PM 16 **MR. TRIPI:** Okay. Can we zoom out of that,
03:39PM 17 Ms. Champoux? Can you zoom in on paragraph 3?

03:39PM 18 **BY MR. TRIPI:**

03:40PM 19 Q. Can you read that out loud for the jury?

03:40PM 20 A. Agents have identified Remus Nowak AKA Remo in a prior
03:40PM 21 DEA investigation C2-98-0030 for trafficking in multiple
03:40PM 22 kilograms of marijuana.

03:40PM 23 Nowak is believed to be a major marijuana distributor and
03:40PM 24 money-laundering source for the Ron Serio DTO.

03:40PM 25 Nowak is an owner of Duncan Motor Car Sales located at

2030 Delaware Avenue, Buffalo, New York.

Agents have initiated in-depth financial analysis of the financial records of Duncan Motor Car Sales in efforts to expose money-laundering and structuring practices.

Q. Okay. I have a question for you. See where it says -- that second sentence you read, Nowak is believed to a major marijuana and distributor and money-laundering source the Serio DTO; do you see that?

A. Yes.

Q. Do you understand Serio DTO to reference your drug organization?

A. Correct.

Q. Was Remus Nowak ever a money-laundering source for your organization?

A. No.

Q. Was he ever part of your organization, your and Masecchia's organization, in any way, shape, or form?

A. No.

Q. In fact, by the time you were involved, was he -- did you believe him to be an enemy of Mike Masecchia's?

A. Yes.

Q. So is that sentence true at all? Nowak is believed to be a major distributor and money-laundering source for the Serio DTO?

A. Completely false.

03:41PM 1 Q. Who laundered your money?

03:41PM 2 A. Myself.

03:41PM 3 Q. Through your businesses?

03:41PM 4 A. Correct.

03:41PM 5 Q. As you've described for this jury?

03:41PM 6 A. Yes.

03:41PM 7 **MR. TRIPI:** Okay. We can zoom out of that, and I'd
03:41PM 8 like to go to page Exhibit 8A at page 7. Can we zoom in on
03:41PM 9 box 5?

03:41PM 10 **BY MR. TRIPI:**

03:41PM 11 Q. Do you see who wrote this?

03:41PM 12 A. Joseph Bongiovanni.

03:41PM 13 **MR. TRIPI:** Can we zoom out of that?

03:41PM 14 Can we zoom in on box number 8, please?

03:41PM 15 **BY MR. TRIPI:**

03:42PM 16 Q. Do you see the date this was prepared?

03:42PM 17 A. April 7th, 2014.

03:42PM 18 Q. You are still getting marijuana from Jarrett Guy?

03:42PM 19 A. Correct.

03:42PM 20 Q. You're still storing marijuana in multiple locations to
03:42PM 21 include Lou Selva's house?

03:42PM 22 A. Correct.

03:42PM 23 Q. And you set up a grow in Lou Selva's basement?

03:42PM 24 A. Correct.

03:42PM 25 Q. Okay.

03:42PM 1 **MR. TRIPI:** Zoom out of that.

03:42PM 2 Can you zoom in on paragraph 3 again?

03:42PM 3 **BY MR. TRIPI:**

03:42PM 4 Q. I won't have you read the whole thing, but take a look at
03:42PM 5 that for a moment. Is that basically the same paragraph you
03:42PM 6 just read in that other document?

03:42PM 7 A. Looks like the same exact.

03:42PM 8 Q. That second sentence, Nowak is believed to be a major
03:42PM 9 marijuana distributor and money-laundering source for the
03:42PM 10 Serio DTO; is that true or false?

03:42PM 11 A. False.

03:42PM 12 Q. Was he ever your money-launderer?

03:42PM 13 A. No.

03:42PM 14 Q. Again, you laundered your own money?

03:42PM 15 A. Correct.

03:42PM 16 Q. At all times referencing these documents, you looked at
03:42PM 17 two different dates, was it your understanding Remus Nowak
03:43PM 18 was an enemy of Mike Masecchia?

03:43PM 19 A. Yes.

03:43PM 20 Q. From approximately 2008 through April 18th, 2017, while
03:43PM 21 you were partners with Mike Masecchia, what was your
03:43PM 22 understanding of why you and he were able to progress that
03:43PM 23 long without being disrupted by law enforcement?

03:43PM 24 A. Because of his relationship with Joe Bongiovanni.

03:43PM 25 Q. During that time, were you, for the majority of the

03:43PM 1 portion of that time, were you paying him money?

03:43PM 2 A. Yes.

03:43PM 3 Q. To this defendant?

03:43PM 4 A. Correct.

03:43PM 5 Q. When you negotiated with suppliers and referenced having
03:43PM 6 a DEA agent on your payroll in your negotiation with Santiago
03:43PM 7 Gale, who were you referencing?

03:43PM 8 A. Joe Bongiovanni.

03:43PM 9 Q. Did you rely upon the information Bongiovanni provided
03:43PM 10 about R.K.?

03:43PM 11 A. Yes.

03:43PM 12 Q. Did you rely upon the information he provided about T.S.?

03:44PM 13 A. Yes.

03:44PM 14 Q. Did you rely on the information he provided about Mario
03:44PM 15 Vacanti?

03:44PM 16 A. Yes.

03:44PM 17 Q. Up through your arrest, you were you and Masecchia close?

03:44PM 18 A. Yes.

03:44PM 19 Q. Were you friends?

03:44PM 20 A. Yes.

03:44PM 21 Q. Were you business partners?

03:44PM 22 A. Yes.

03:44PM 23 Q. Was Masecchia making more than 20,000 per month working
03:44PM 24 with you?

03:44PM 25 A. Yes.

Q. How much total would you estimate in bribe payments you made to Masecchia for Bongiovanni to pass information that you wanted, from Lou Selva to Masecchia?

A. At least a quarter million dollars.

Q. Is that on the low end?

A. Yes.

Q. What's on the high end?

A. Maybe 3-, 350-.

Q. And your activity was uninterrupted until you were arrested by the Erie County Sheriffs on April 18th, 2017?

A. Correct.

MR. TRIPI: Just a moment, Your Honor.

Nothing further, Judge.

THE COURT: Mr. MacKay.

CROSS-EXAMINATION BY MR. MacKAY:

Q. Good afternoon, Mr. Serio.

A. Good afternoon.

Q. All right. So, you just ended your testimony on direct. You believe this arrangement worked, or the proof of that was that you were never arrested until you were, correct?

A. Correct.

Q. Meaning that from whenever you allegedly started paying Mr. Bongiovanni, you never had any issues until you were arrested, correct?

03:45PM 1 A. Correct.

03:45PM 2 Q. As you sit here though, you don't know that wasn't dumb
03:46PM 3 luck not being arrested, correct?

03:46PM 4 A. Correct.

03:46PM 5 Q. For example, some of these individuals you've talked
03:46PM 6 about, they've gone on to start separate businesses and were
03:46PM 7 in the drug business originally, correct?

03:46PM 8 A. Correct.

03:46PM 9 Q. And some of them opened prominent restaurants in the City
03:46PM 10 of Buffalo, correct?

03:46PM 11 A. If you say so, I don't know specifically.

03:46PM 12 Q. Well, Chris Baker went on to -- to open a bar, correct?

03:46PM 13 A. Correct.

03:46PM 14 Q. Opened with Joe Gugino, correct?

03:46PM 15 A. Correct.

03:46PM 16 Q. Both of those gentleman were individuals who were big in
03:46PM 17 the drug game, correct?

03:46PM 18 A. Correct.

03:46PM 19 Q. And ultimately they were never arrested, correct?

03:46PM 20 A. Correct.

03:46PM 21 Q. Now, when you first started talking to Mike Masecchia
03:46PM 22 about this about this payment arrangement, you had concerns
03:46PM 23 about how this would actually be facilitated on
03:46PM 24 Mr. Bongiovanni's end, correct?

03:46PM 25 A. More so just the -- how to tell about the informants, I

1 just had a question about.

2 Q. Well, I mean, I think you testified on direct you had
3 concerns about how it would reach so far to reach everybody,
4 correct?

5 A. Correct.

6 Q. And you asked Mr. Masecchia some questions about that,
7 correct?

8 A. Correct.

9 Q. And he never really got back to you about that, correct?

10 A. Correct.

11 Q. Throughout the whole that time that this payment
12 arrangement was going on, Mr. Masecchia never told you about
13 any of the details about how Mr. Bongiovanni was doing
14 whatever he was supposedly doing, correct?

15 A. Correct.

16 Q. Now, we just covered it, so while it's fresh in our mind
17 let's talk about some of these things with the phones.

18 You were shown a number of phone contacts, and you recall
19 going through those?

20 A. Correct.

21 **MR. MacKAY:** Ms. Champoux, can we pull up Government
22 Exhibit 100A.1, and can we go to the Baker C toll analysis?

23 **THE COURT:** This is in evidence?

24 **MR. MacKAY:** This is in evidence, Your Honor.

25 **BY MR. MacKAY:**

03:47PM 1 Q. So, while that's pulling up, do you recall that the way
03:47PM 2 you were asked question was you were shown a bunch of
03:47PM 3 contacts that came out of your iPhone, correct?

03:47PM 4 A. Correct.

03:47PM 5 Q. And then you were comparing them with other documents on
03:47PM 6 the other side to see if they match the same number, correct?

03:47PM 7 A. Correct.

03:48PM 8 Q. Now, it's your testimony, the documents that were
03:48PM 9 typically on the right-hand side of the screen, you had never
03:48PM 10 seen those before, correct?

03:48PM 11 A. Correct.

03:48PM 12 Q. Now, I'm going to direct your attention to another
03:48PM 13 document I expect you probably have never seen before. Do
03:48PM 14 you recognize what's in front of you?

03:48PM 15 A. No.

03:48PM 16 Q. Okay. That does, although at the top here highlighted,
03:48PM 17 does have Chris Baker name; do you see that?

03:48PM 18 A. Correct.

03:48PM 19 Q. The phone number though further down about middle of the
03:48PM 20 page, that's your -- your phone number, the 830-3226 number,
03:48PM 21 correct?

03:48PM 22 A. Correct.

03:48PM 23 Q. Do you understand looking at this, that this is a
03:48PM 24 subpoena return to the DEA?

03:48PM 25 A. I don't know.

03:48PM 1 Q. You don't know, because you've never seen one of these
03:48PM 2 before, correct?

03:48PM 3 A. Correct.

03:48PM 4 **MR. MacKAY:** Ms. Champoux, can we go to the next
03:48PM 5 page? Can you rotate that, please?

03:48PM 6 **BY MR. MacKAY:**

03:48PM 7 Q. Do you know what this document is here in front of you
03:48PM 8 now?

03:48PM 9 A. No.

03:48PM 10 Q. Do you understand this to be a document generated by the
03:48PM 11 DEA that shows all of the numbers that are calling or being
03:48PM 12 called by your phone number?

03:48PM 13 A. I've never seen it before.

03:48PM 14 Q. You've never seen one of those before, correct?

03:49PM 15 A. Correct.

03:49PM 16 Q. Okay. Now, the subpoena return, well --

03:49PM 17 **MR. MacKAY:** Ms. Champoux, can we pull up Government
03:49PM 18 Exhibit 8A? Okay. Can we go to -- can we word search? Let's
03:49PM 19 just word search Campbell, for example.

03:49PM 20 **MS. CHAMPOUX:** I don't think you can word search
03:49PM 21 while trial is in progress.

03:49PM 22 **MR. MacKAY:** Oh, you know what? I can do this.
03:49PM 23 I'll tell you exactly what page.
03:49PM 24 Please go to page 307.

25

[illegible]

03:50PM 1 A. Correct.

03:50PM 2 Q. That wasn't all at one point in time, you gave him one
03:50PM 3 list of all sorts of names, correct?

03:50PM 4 A. Correct.

03:50PM 5 **MR. MacKAY:** Okay. You can take that down,
03:50PM 6 Ms. Champoux, for now.

03:50PM 7 **BY MR. MacKAY:**

03:50PM 8 Q. So I want to talk a little bit about your sort of supply
03:51PM 9 timeline that you've got going on for major sources of supply
03:51PM 10 for marijuana.

03:51PM 11 So you -- you hook up with Mike Masecchia and sort of
03:51PM 12 ramp up operations with him somewhere around the 2008
03:51PM 13 timeframe, correct?

03:51PM 14 A. Correct.

03:51PM 15 Q. Now, I think you told us on direct what caused the real
03:51PM 16 concern and ultimately moving towards paying Mr. Masecchia to
03:51PM 17 pay Mr. Bongiovanni was your concern about interest in your
03:51PM 18 operation after your friend Dave Gambino got arrested,
03:51PM 19 correct?

03:51PM 20 A. Correct.

03:51PM 21 Q. Meaning that, you know, before Dave Gambino's arrest, you
03:51PM 22 weren't considering any sort of payments, correct?

03:51PM 23 A. Well, yeah. Correct.

03:51PM 24 Q. But then after his arrest, that's sort of when
03:51PM 25 conversations occur about forming some sort of arrangement,

03:51PM 1 correct?

03:51PM 2 A. Correct. But I didn't bring it up. Mike brought it up
03:51PM 3 to me.

03:51PM 4 Q. Okay. But, yeah. So, I want to orient this in time,
03:51PM 5 though. This occurs after Dave Gambino's arrest, correct?

03:52PM 6 A. Correct.

03:52PM 7 Q. And you'd have no reason disagree with me Mr. Gambino was
03:52PM 8 arrested and indicted in federal court in November of 2009?

03:52PM 9 A. Yes.

03:52PM 10 Q. So if we use that as a date, your payments to Mike
03:52PM 11 Masecchia occur after that point in time, correct?

03:52PM 12 A. Correct.

03:52PM 13 Q. And if it's November, do you think they maybe started in
03:52PM 14 early 2010, perhaps?

03:52PM 15 A. Early 2010? I believe it was late 2010.

03:52PM 16 Q. Late 2010? Okay. So late 2010 is when you start paying
03:52PM 17 Mr. Masecchia, correct?

03:52PM 18 A. Correct.

03:52PM 19 Q. Okay. And then it's your testimony, I think, if I recall
03:52PM 20 on direct, that you paid the \$2,000 sum for about a year,
03:52PM 21 correct?

03:52PM 22 A. Correct.

03:52PM 23 Q. And then it ramps up to 4,000 a month, correct?

03:52PM 24 A. Correct.

03:52PM 25 Q. Now, again, I think you told us on direct the reason that

03:52PM 1 it sort of increases is because your operations increased,
03:52PM 2 correct?

03:52PM 3 A. Correct.

03:52PM 4 Q. That's about the time where you start getting involved
03:52PM 5 with marijuana from the West Coast via Santiago Gale,
03:52PM 6 correct?

03:52PM 7 A. Correct.

03:52PM 8 Q. So sometime in about 2011 is when you then hook up with
03:53PM 9 Santiago Gale, correct?

03:53PM 10 A. Correct.

03:53PM 11 Q. But you only ever met him once though, correct?

03:53PM 12 A. Correct.

03:53PM 13 Q. Your contact to Santiago Gale is through T.S., correct?

03:53PM 14 A. Correct.

03:53PM 15 Q. Now, so, then comes a point in time where you're getting
03:53PM 16 loads of marijuana from out west that you understand to be
03:53PM 17 coming from Santiago Gale, correct?

03:53PM 18 A. Correct.

03:53PM 19 Q. And then did you later come to learn that Santiago Gale
03:53PM 20 was arrested in January of 2012?

03:53PM 21 A. Correct.

03:53PM 22 Q. Okay. Now after that point in time -- well, strike that.
03:53PM 23 You didn't immediately learn of his arrest, correct?

03:53PM 24 A. I didn't know of his arrest until much later.

03:53PM 25 Q. Okay. Because you continued to deal basically with T.S.,

03:53PM 1 correct?

03:53PM 2 A. Correct.

03:53PM 3 Q. But after Santiago Gale's arrested, your only contact for

03:53PM 4 marijuana out west is through T.S., correct?

03:53PM 5 A. Correct.

03:53PM 6 Q. And, I mean, do you know the deal, do you know the

03:53PM 7 details of where he was sourcing the marijuana from after

03:54PM 8 Santiago Gale's arrest?

03:54PM 9 A. No.

03:54PM 10 Q. Okay. Now ultimately, you and T.S. have a breakdown in

03:54PM 11 relationship, correct?

03:54PM 12 A. Correct.

03:54PM 13 Q. And it has to do with him storing marijuana at your

03:54PM 14 warehouse, correct?

03:54PM 15 A. Correct.

03:54PM 16 Q. And we won't go through all the details again, but

03:54PM 17 basically he tells you he's going to store the motorcycle

03:54PM 18 there, and you find out he's got marijuana and a machine gun

03:54PM 19 there, correct?

03:54PM 20 A. Correct.

03:54PM 21 Q. Now at the point in time that this happens, you assume

03:54PM 22 it's Santiago Gale's marijuana, correct?

03:54PM 23 A. Correct.

03:54PM 24 Q. Because you had only ever known him to be the plug to

03:54PM 25 Santiago Gale, correct?

03:54PM 1 A. Correct.

03:54PM 2 Q. Now, ultimately, you and Rob Rine devise this plan, and

03:54PM 3 steal his marijuana, correct?

03:54PM 4 A. Correct.

03:54PM 5 Q. And after that, you're done dealing with T.S., correct?

03:54PM 6 A. No, I still dealt with him a few times after that.

03:54PM 7 Q. Few times?

03:54PM 8 A. Yeah.

03:54PM 9 Q. Now, this would be in approximately 2012?

03:54PM 10 A. Correct.

03:54PM 11 Q. Because we're talking now the trailing timeframe after

03:54PM 12 Santiago Gale is arrested, correct?

03:54PM 13 A. Correct.

03:55PM 14 Q. So the few more times you deal with T.S. are 2012?

03:55PM 15 A. 2012, into 2013.

03:55PM 16 Q. Okay. Now, but in 2012, in November of 2012, Wayne

03:55PM 17 Anderson's arrested, correct?

03:55PM 18 A. Correct.

03:55PM 19 Q. And you had a connection to the marijuana Mr. Anderson

03:55PM 20 was going to receive in some fashion, correct?

03:55PM 21 A. Correct.

03:55PM 22 Q. Was really -- is it fair to say it was actually indirect

03:55PM 23 through Frank Burkhardt?

03:55PM 24 A. Yes.

03:55PM 25 Q. But, you know, ultimately it didn't -- it was supposed to

03:55PM 1 involve Wayne Anderson in some fashion, correct?

03:55PM 2 A. Yes. Correct.

03:55PM 3 Q. Now, after Wayne Anderson's arrest, you take some steps
03:55PM 4 to have Mike Masecchia look into that, correct?

03:55PM 5 A. Correct.

03:55PM 6 Q. Now do you recall that what actually, sort of, concerned
03:55PM 7 you after that arrest was a lawyer talking about your name
03:55PM 8 being brought up in connection with Wayne Anderson?

03:55PM 9 A. Correct.

03:55PM 10 Q. Now as a response to that, to the arrest and the general
03:55PM 11 circumstances after that, you took some time off from drug
03:56PM 12 behavior, drug dealing, correct?

03:56PM 13 A. Correct.

03:56PM 14 Q. And do you recall that it was almost about a year before
03:56PM 15 you got fully back into the business?

03:56PM 16 A. It was probably six months, and then full, yeah, a year
03:56PM 17 when I was --

03:56PM 18 Q. Yeah, let's walk through that.

03:56PM 19 So, after Wayne Anderson's arrest, it's a hard stop on
03:56PM 20 drug dealing for you, correct?

03:56PM 21 A. Correct.

03:56PM 22 Q. You're afraid at that time?

03:56PM 23 A. Correct.

03:56PM 24 Q. So then you take about at least six months of time
03:56PM 25 completely off of drug dealing, correct?

03:56PM 1 A. Correct.

03:56PM 2 Q. And then after that point in time, about six months after
03:56PM 3 the arrest you start to reengage with an old guy you dealt
03:56PM 4 with name Mark Kagan, correct?

03:56PM 5 A. Correct.

03:56PM 6 Q. And he's a guy that's down in New York City, correct?

03:56PM 7 A. Correct.

03:56PM 8 Q. To remind the jury sort of on the front end of some drug
03:56PM 9 dealing, before you really got involved with this payment
03:56PM 10 arrangement you had used Mark Kagan as a source some time
03:56PM 11 ago, correct?

03:56PM 12 A. Correct.

03:56PM 13 Q. Approximately what, 2008 timeframe?

03:56PM 14 A. Correct.

03:56PM 15 Q. So, you use him in 2008, and kind of disappears from your
03:57PM 16 radar for a while, correct?

03:57PM 17 A. Correct.

03:57PM 18 Q. And you pick him up back in about mid 2013 or so?

03:57PM 19 A. Correct.

03:57PM 20 Q. And then you deal with him exclusively for about six
03:57PM 21 months, correct?

03:57PM 22 A. Correct.

03:57PM 23 Q. And then six months after that, you get introduced to
03:57PM 24 Jarrett Guy, correct?

03:57PM 25 A. Well, I got introduced to Jarrett Guy before when I

1 stopped. And then I reconnected with Mark Kagan, and Mark
2 Kagan was going through Jarrett Guy.

3 Q. Okay.

4 A. But then I wind up cutting Mark Kagan out.

5 Q. Okay, yeah. That's what I'm just trying to clarify.

6 A. Okay.

7 Q. So, again, so for the six months after Ron -- I'm sorry.

8 For the six months after the Wayne Anderson arrest, it's just
9 flat no drug dealing, correct?

10 A. Correct.

11 Q. And then -- then it's Mark Kagan is your contact for a
12 while, but you know at that point in time he's getting his
13 weed from Jarrett Guy, correct?

14 A. Correct.

15 Q. So, for the next six months after that, you're dealing
16 really with Mark Kagan, but you understand it's Jarrett Guy's
17 weed, correct?

18 A. Correct.

19 Q. And then so six months of that, and then you completely
20 cut Mark Kagan out, and it's Jarrett Guy all the way,
21 correct?

22 A. Correct.

23 Q. So, Jarrett Guy -- and when you start going to Jarrett
24 Guy exclusively, that's -- that starts with the mail,
25 correct?

03:58PM 1 A. Correct.

03:58PM 2 Q. And then some time later, it expands to the -- the U-Haul
03:58PM 3 trucks, we'll call them the mid-sized trucks, right?

03:58PM 4 A. Yes.

03:58PM 5 Q. And then ultimately expands to the full-size
03:58PM 6 tractor-trailers, correct?

03:58PM 7 A. Correct.

03:58PM 8 Q. And that's sort of the thing that's going on right about
03:58PM 9 the time you get arrested, correct?

03:58PM 10 A. Correct.

03:58PM 11 Q. Okay. So, again, just to summarize that, it goes Mark
03:58PM 12 Kagan in the middle of 2013, correct?

03:58PM 13 A. Correct.

03:58PM 14 Q. Towards about the end of 2013, and then it's exclusively
03:58PM 15 Jarrett Guy, correct?

03:58PM 16 A. Correct.

03:59PM 17 Q. And it's packages first, correct?

03:59PM 18 A. Correct.

03:59PM 19 Q. U-Haul second, correct?

03:59PM 20 A. Correct.

03:59PM 21 Q. And tractor-trailers third, correct?

03:59PM 22 A. Correct.

03:59PM 23 Q. Okay. Now --

03:59PM 24 **MR. MacKAY:** I'm going to try to squeeze in another
03:59PM 25 subject, Judge.

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1 **THE COURT:** Okay.

2 **BY MR. MacKAY:**

3 Q. Now, the way this arrangement worked is you made payments

4 to Mike Masecchia, correct?

5 A. Correct.

6 Q. You understood from what -- how he explained it,

7 ultimately, those payments would be -- would make their way

8 to Joe Bongiovanni, correct?

9 A. Correct.

10 Q. But the information would come back ultimately through

11 Mike Masecchia to you, correct?

12 A. Correct.

13 Q. You understood that as you were told, the information

14 might be filtered from Joe Bongiovanni to Lou Selva to Mike

15 Masecchia, correct?

16 A. Correct.

17 Q. But ultimately, it's Mike Masecchia who also forms the

18 back end of the relationship of the information getting back

19 to you, correct?

20 A. Correct.

21 Q. Now, this was always word of mouth, correct?

22 A. Correct.

23 Q. You were never shown any DEA documents, correct?

24 A. Correct.

25 Q. I mean, some of the documents you've seen here are the

04:00PM 1 first time you've ever seen them, correct?

04:00PM 2 A. Correct.

04:00PM 3 Q. Now, you had the exclusive relationship, as you

04:00PM 4 understood it, paying Joe Bongiovanni, correct?

04:00PM 5 A. Correct.

04:00PM 6 Q. Now you have a brother who also was in the drug game and

04:00PM 7 at some point in time, correct?

04:00PM 8 A. Correct.

04:00PM 9 Q. But he did not have a separate sort of payment

04:00PM 10 arrangement or anything going through to Joe Bongiovanni,

04:00PM 11 correct?

04:00PM 12 A. Correct.

04:00PM 13 Q. You were the sole exclusive route to and from information

04:00PM 14 of payments of Joe Bongiovanni, correct?

04:00PM 15 A. Correct.

04:00PM 16 Q. Okay. Now, in setting up this arrangement, the purpose

04:00PM 17 was that you wanted to make sure your operation was

04:00PM 18 protected, correct?

04:01PM 19 A. Correct.

04:01PM 20 Q. First, is it fair to say it sort of arose from a personal

04:01PM 21 fear right after Dave Gambino's arrest?

04:01PM 22 A. Correct.

04:01PM 23 Q. And then as you scale up the operation size about a year

04:01PM 24 later, you want to make sure everybody around you is

04:01PM 25 connected, correct?

04:01PM 1 A. Correct.

04:01PM 2 Q. Protected, correct?

04:01PM 3 A. Correct.

04:01PM 4 Q. Okay. Now, Santiago Gale, we talked about him, he was

04:01PM 5 one of your main sources of supply at one point in time,

04:01PM 6 correct?

04:01PM 7 A. Correct.

04:01PM 8 Q. If you had to estimate for, what, about a year or so?

04:01PM 9 A. Correct.

04:01PM 10 Q. And you were moving a fair amount of product for him,

04:01PM 11 correct?

04:01PM 12 A. Correct.

04:01PM 13 Q. I forgot the number, if you can remind us --

04:01PM 14 A. 200.

04:01PM 15 Q. -- about how much?

04:01PM 16 A. 200 pounds.

04:01PM 17 Q. 200 pounds a month?

04:01PM 18 A. Yes.

04:01PM 19 Q. Now, you didn't even learn about his arrest until much

04:01PM 20 later, correct?

04:01PM 21 A. Correct.

04:01PM 22 Q. How'd you learn about his arrest?

04:01PM 23 A. Through the government.

04:01PM 24 Q. Through the government?

04:01PM 25 A. Through a proffer.

04:01PM 1 Q. Okay. So, what you're telling the jury is you didn't
04:01PM 2 even learn that Santiago Gale had been arrested until after
04:01PM 3 your arrest and you were in discussions with the government,
04:02PM 4 correct?

04:02PM 5 A. Correct.

04:02PM 6 Q. And so in January of 2012, you had no realtime
04:02PM 7 information that Santiago Gale had been arrested by the DEA,
04:02PM 8 correct?

04:02PM 9 A. Correct.

04:02PM 10 Q. Prior to his arrest, you never received any tip-off that
04:02PM 11 he was under investigation by DEA, correct?

04:02PM 12 A. Correct.

04:02PM 13 Q. You had no -- not received any information that he had
04:02PM 14 been arrested out in Utah by DEA Utah, correct?

04:02PM 15 A. Well, I never gave his name.

04:02PM 16 Q. Okay.

04:02PM 17 A. I don't give the supplier names.

04:02PM 18 Q. Okay. But, so -- so it's your testimony you never passed
04:02PM 19 along any of your supplier names to -- through Mike Masecchia
04:02PM 20 to Joe Bongiovanni?

04:02PM 21 A. Correct.

04:02PM 22 Q. Okay. And so, it's your testimony you did not pass along
04:02PM 23 Mark Kagan's name?

04:02PM 24 A. Correct.

04:02PM 25 Q. And you didn't pass along Santiago Gale's name, correct?

04:02PM 1 A. Correct.

04:02PM 2 Q. Okay. Now, John Robinson. He's a name that --

04:03PM 3 Let's word it differently. He dated your ex

04:03PM 4 sister-in-law, correct?

04:03PM 5 A. Correct.

04:03PM 6 Q. And he was one of your associates, correct?

04:03PM 7 A. Correct.

04:03PM 8 Q. He sold you for, correct?

04:03PM 9 A. Correct.

04:03PM 10 Q. He did not supply you, correct?

04:03PM 11 A. Correct.

04:03PM 12 Q. But it's your testimony he's a name you provided to -- to

04:03PM 13 Joe Bongiovanni, correct?

04:03PM 14 A. Correct.

04:03PM 15 Q. And when I say that, just so we're clear, what I'm saying

04:03PM 16 is you provided to Mike Masecchia, and with the intention of

04:03PM 17 going through to Joe Bongiovanni, correct?

04:03PM 18 A. Correct.

04:03PM 19 Q. Just in case I misspeak, that's what I'm intending to

04:03PM 20 communicate.

04:03PM 21 A. Okay.

04:03PM 22 Q. Now, you come to learn that Mark Vitale is arrested in

04:03PM 23 December of 2015, correct?

04:03PM 24 A. Correct.

04:03PM 25 Q. And you had never received any information prior to his

04:03PM 1 arrest that he was the subject of any investigation, correct?

04:03PM 2 A. Correct.

04:03PM 3 Q. You had not received any information that members of
04:03PM 4 Buffalo DEA were looking into his phones in any fashion,
04:03PM 5 correct?

04:04PM 6 A. Correct.

04:04PM 7 Q. Never received any information that Mr. Bongiovanni's
04:04PM 8 partner, Joe Palmieri, had any connection to an
04:04PM 9 investigation, correct?

04:04PM 10 A. Correct.

04:04PM 11 Q. In fact, you learned about the arrest I think you
04:04PM 12 testified on direct, who was it from?

04:04PM 13 A. From my ex-wife.

04:04PM 14 Q. Okay. So your ex-wife told you, correct?

04:04PM 15 A. Correct.

04:04PM 16 Q. Okay. Do you recall testifying in a prior proceeding
04:04PM 17 here? Do you recall sitting and testifying in a prior
04:04PM 18 proceeding here?

04:04PM 19 A. Yes.

04:04PM 20 Q. Do you recall -- so, I mean, I just want to be clear,
04:04PM 21 it's your testimony that it's your ex-wife, Lauren, who told
04:04PM 22 you about Mark Vitale's arrest?

04:04PM 23 A. Correct.

04:04PM 24 Q. Okay. We'll come back to that. I lost my place here.

04:05PM 25 You were never provided with the name Corey Cannizzo as

04:05PM 1 an informant, correct?

04:05PM 2 A. Correct.

04:05PM 3 Q. That's -- that's not a name you ever heard before,

04:05PM 4 correct?

04:05PM 5 A. Correct.

04:05PM 6 Q. Okay. All right. The Suppas.

04:05PM 7 Those were individuals who dealt with in the context of

04:05PM 8 the outdoor grows, correct?

04:05PM 9 A. Correct.

04:05PM 10 Q. And I think you testified you also helped set up an

04:05PM 11 indoor grow for John Suppa, correct?

04:05PM 12 A. Correct.

04:05PM 13 Q. Do you recall the address of that?

04:05PM 14 A. I don't recall the address. It's the second building in

04:05PM 15 from the corner of Fairchild and Hertel.

04:05PM 16 Q. Okay.

04:05PM 17 **MR. MacKAY:** Ms. Champoux, can we show Government

04:05PM 18 Exhibit 8, 1195 Hertel.Jpeg? Government Exhibit 8, 1195

04:05PM 19 Hertel.

04:06PM 20 **BY MR. MacKAY:**

04:06PM 21 Q. Is that the building?

04:06PM 22 A. Yes.

04:06PM 23 Q. Okay. So just to be clear, that's the building in the

04:06PM 24 picture that you set up an indoor grow operation at, correct?

04:06PM 25 A. Yes.

04:06PM 1 Q. And what year was that?

04:06PM 2 A. That was in 2009.

04:06PM 3 Q. Okay. Now, you never received any information that back
04:06PM 4 in 2009, the Suppas were the subject of a DEA investigation,
04:06PM 5 correct?

04:06PM 6 A. Correct.

04:06PM 7 **MR. MacKAY:** You can take that down, Ms. Champoux,
04:06PM 8 thank you.

04:06PM 9 **BY MR. MacKAY:**

04:06PM 10 Q. Now Mike Masecchia informed you, though, that he had a --
04:06PM 11 had some plants seized down in the Southern Tier quite a long
04:06PM 12 time before that, correct?

04:06PM 13 A. Correct.

04:06PM 14 Q. Sometime in the early 2000s?

04:06PM 15 A. Correct.

04:06PM 16 Q. Okay. But in the, you know, when you're getting more
04:06PM 17 involved with Mr. Masecchia around 2009, he never alerts you
04:06PM 18 that he knows about a DEA investigation into him, correct?

04:06PM 19 A. Correct.

04:06PM 20 Q. Now, you talked about -- you had a heavy gambling habit,
04:06PM 21 correct?

04:07PM 22 A. Correct.

04:07PM 23 Q. That goes back, I mean, when you did start that?

04:07PM 24 A. Heavy gambling? Late 2010, early 2011.

04:07PM 25 Q. Okay. Approximately the time you really starting to ramp

04:07PM 1 up the income?

04:07PM 2 A. Yes.

04:07PM 3 Q. For example, that corresponds about the time you buy the

04:07PM 4 Lebrun house, correct?

04:07PM 5 A. Correct.

04:07PM 6 Q. And then moving into about 2015, you are starting to get

04:07PM 7 stopped at the border a lot, correct?

04:07PM 8 A. Correct.

04:07PM 9 Q. Because you are -- you're giving information about

04:07PM 10 gambling activity, correct?

04:07PM 11 A. Correct.

04:07PM 12 Q. And you're subjected to a number of secondary

04:07PM 13 inspections, correct?

04:07PM 14 A. Correct.

04:07PM 15 Q. And around that point in time, you never received any

04:07PM 16 tip-off about any agency looking into you, correct?

04:07PM 17 A. Correct.

04:07PM 18 Q. Even going back further into the 2018 timeframe, you

04:07PM 19 never received any information about whether your finances

04:07PM 20 were being subpoenaed, correct?

04:07PM 21 A. Correct.

04:07PM 22 Q. Whether your M&T Bank accounts were being subpoenaed,

04:07PM 23 correct?

04:08PM 24 A. Correct.

04:08PM 25 Q. Okay. And in October of 2015, you never received any

04:08PM 1 information that HSI was looking into you, correct?

04:08PM 2 A. Correct.

04:08PM 3 Q. In a -- in a financial investigation, correct?

04:08PM 4 A. Correct.

04:08PM 5 Q. Okay. Now, you talked about an individual named Joe

04:08PM 6 Plevniak.

04:08PM 7 A. Correct.

04:08PM 8 Q. You laundered some money for him, correct?

04:08PM 9 A. Correct.

04:08PM 10 Q. He dealt drugs separately and apart from you, correct?

04:08PM 11 A. Correct.

04:08PM 12 Q. But you helped him at least on a couple of occasions to

04:08PM 13 launder some of that drug money, correct?

04:08PM 14 A. Correct.

04:08PM 15 Q. You were never made aware that HSI was looking into Joe

04:08PM 16 Plevniak, correct?

04:08PM 17 A. Correct.

04:08PM 18 Q. And was Joe Plevniak a name you ever provided to

04:08PM 19 Mr. Masecchia?

04:08PM 20 A. No.

04:08PM 21 Q. Okay. Now, let's go to early 2013.

04:08PM 22 The name G.R., do you even know that name as you sit here
04:08PM 23 today?

04:08PM 24 A. No.

04:08PM 25 Q. Okay. I just want to -- did you and your brother

04:09PM 1 ultimately have a falling out at some point in time?

04:09PM 2 A. Yes.

04:09PM 3 Q. When was that approximately?

04:09PM 4 A. I believe that was 2013. And I didn't talk to him for
04:09PM 5 two years.

04:09PM 6 Q. Okay. What prompted that?

04:09PM 7 A. We just got into a fight, and we kind of split up the
04:09PM 8 collection agency. And I felt like I was forced out, so I
04:09PM 9 was kind of pissed off.

04:09PM 10 Q. Yeah. Let's kind of walk through that. Beginning of
04:09PM 11 2013?

04:09PM 12 A. Possibly.

04:09PM 13 Q. Okay. But this is not involving any of the drug
04:09PM 14 business, correct?

04:09PM 15 A. Correct.

04:09PM 16 Q. And it sounds like what you're telling us it had to do
04:09PM 17 with arguments regarding your collections businesses,
04:09PM 18 correct?

04:09PM 19 A. Yeah, we had a different style of managing, and we would
04:09PM 20 argue a lot.

04:09PM 21 Q. Right up to that point in time you and your brother owned
04:09PM 22 collections agencies together, correct?

04:09PM 23 A. Correct.

04:09PM 24 Q. But it sounds like a management style difference
04:09PM 25 triggered that, and you went your own separate ways, correct?

04:09PM 1 A. Correct.

04:09PM 2 Q. And as a result of that, you didn't speak to him for two
04:10PM 3 years, correct?

04:10PM 4 A. Correct.

04:10PM 5 Q. So in 2013, you didn't provide any information about any
04:10PM 6 informant talking about him, correct?

04:10PM 7 A. Correct.

04:10PM 8 Q. You didn't tell him that he was gonna be the subject of
04:10PM 9 any controlled calls of DEA, correct?

04:10PM 10 A. Correct.

04:10PM 11 Q. And as you sit here today, like I said, you never even
04:10PM 12 heard the name G.R., correct?

04:10PM 13 A. Correct.

04:10PM 14 Q. So fair to say you never passed the name G.R. to your
04:10PM 15 brother Tom Serio?

04:10PM 16 A. Correct.

04:10PM 17 **MR. MacKAY:** Judge, now might be a good time to stop.

04:10PM 18 **THE COURT:** Fine.

04:10PM 19 Okay, folks. So we're at another weekend, and you
04:10PM 20 know my message, right? When you're at dinner with family on
04:10PM 21 Sunday, don't talk about the case. Don't talk about the case
04:10PM 22 at all with anyone at any time over the weekend.

04:10PM 23 Don't read or watch or listen to any news coverage if
04:10PM 24 there is any while the trial is in progress. Don't use tools
04:10PM 25 of technology to communicate about the case or to research

1 anything about the case. Don't try to learn anything about
2 the case outside the courtroom. And don't make up your mind
3 until you start deliberating.

4 We'll see you back here at 9:30 on Monday morning.
5 Again, we'll go until 5:30, unless somebody's got a real
6 problem doing that. And we'll do that Monday, Tuesday,
7 Wednesday, and Thursday next week.

8 And when I say 5:30, I mean a hard stop at 5:30.
9 We'll go between 5 and 5:30 rather than, you know, approaching
10 5:00 and end. Okay?

11 Thanks, everybody. Have a good weekend. Drive
12 carefully. And get a good night's sleep on Sunday.

13 (Jury excused at 4:11 p.m.)

14 **THE COURT:** Anything we need to do before we break?

15 **MR. TRIPI:** Not from the government, Your Honor.

16 **MR. MacKAY:** No, Your Honor.

17 **THE COURT:** We'll see you folks.

18 Mr. Serio, don't talk to anybody about your testimony
19 between now and Monday. In fact, don't talk to anybody about
20 your testimony while you're still testifying, okay?

21 **THE WITNESS:** Okay.

22 **THE COURT:** Thank you.

23 **MR. TRIPI:** Judge, just a point of clarification.
24 Clearly, we're not going to talk to him, he has his own
25 lawyer.

04:12PM 1 **THE COURT:** Mr. Serio, you can always talk to your
04:12PM 2 lawyer, you can always, always, always talk to your lawyer.

04:12PM 3 Thank you, Mr. Tripi.

04:12PM 4 **MR. TRIPI:** I wanted to clarify that, we certainly
04:12PM 5 won't talk to him.

04:12PM 6 **THE COURT:** Yeah, no, no. Thank you for that
04:12PM 7 clarification.

04:12PM 8 Colleen, were you trying to direct my attention.

04:12PM 9 **THE CLERK:** Pat was trying to get Ann's attention,
04:12PM 10 but she couldn't hear.

04:12PM 11 **THE COURT:** Oh.

04:12PM 12 **THE CLERK:** So that's why I was trying to get her
04:12PM 13 attention. Sorry.

04:12PM 14 **THE COURT:** Okay. Okay. We'll see everybody on
04:12PM 15 Monday morning. Thank you. All.

04:12PM 16 **MR. TRIPI:** Thank you, Your Honor. Continue to feel
04:12PM 17 better, and thanks for grinding it out today.

04:12PM 18 **THE COURT:** Yeah, thank you. Thanks.

04:13PM 19 (Excerpt concluded at 4:13 p.m.)

20 * * * * * * *

CERTIFICATE OF REPORTER

In accordance with 28, U.S.C., 753(b), I
certify that these original notes are a true and correct
record of proceedings in the United States District Court for
the Western District of New York on September 20, 2024.

s/ Ann M. Sawyer

Ann M. Sawyer, FCRR, RPR, CRR
Official Court Reporter
U.S.D.C., W.D.N.Y.

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